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U.S. SENATE
SELECT COMMITTEE ON INDIAN AFFAIRS

MEETINGS OF THE AMERICAN INDIAN POLICY REVIEW COMMISSION

FEBRUARY 20, MAY 8 AND 9, 1976

WASHINGTON, D.C. AND DENVER, COLORADO

VOLUME 2

Printed for the use of the
U.S. Senate Select Committee on Indian Affairs

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SELECT COMMITTEE ON INDIAN AFFAIRS

[Created by S. Res. 4, 95th Cong.]

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JOHN MELCHER, Montana	MARK O. HATFIELD, Oregon

ERNEST L. STEVENS, *Staff Director*

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MEETINGS OF THE AMERICAN INDIAN POLICY REVIEW COMMISSION

FRIDAY, FEBRUARY 20, 1976

American Indian
Policy Review Commission,
Washington, D.C.

The Commission met, pursuant to notice, at 9:30 a.m., in room 3110, Dirksen Senate Office Building, Senator James Abourezk (chairman) presiding.

Present: Senators Abourezk, Metcalf, and Hatfield; Congressmen Yates, Meeds, and Steiger; and Commissioners Borbridge, Deer, Bruce, Whitecrow, and Dial.

Also present: Ernest L. Stevens, staff director; Kirke Kickingbird, general counsel; Tom Fassett, public relations; and Max Richtman, professional staff member.

Chairman Abourezk. The American Indian Policy Review Commission meeting will come to order.

We do not, at this time, have a quorum. However, there are no votes to be taken. There is no official business to be conducted, and this is more in the form of a hearing, specifically with regard to trying to determine task force progress.

So, we can convene because of that fact, and begin our meeting with the assurance that other members will be drifting in as time goes on.

The Commissioners, by the way, are beginning to act like Senators, now. For a long time, I was worried about them. They all showed up on time and never missed a meeting.

Now, just a brief statement. I would like to welcome Commissioner Ada Deer and Commissioner Louis Bruce; and a brief statement as to why this meeting is called.

The Commission is not entirely certain yet of the exact progress and of the exact direction in which the task forces are going in compiling the reports. I think it is essential at this point for the Commission to find out just exactly where you are headed. Because, if you are going in the wrong direction and searching out the wrong things, there is now time to correct that direction and change it so that we can complete the reports on time. We have expressed our intention not to go back to Congress to ask for any extension of time.

We intend to finish this in the time allotted by the statute. So, it really boils down to this. That this is going to be the one chance of the century for the Indian people to establish American Indian policy on behalf of the Federal Government.

If the Indian people miss this chance, it is not going to come around again for quite some time. I hope that all of the task force people and all of the Commission will realize the extreme importance of getting this work done. I guess we all have in our minds approximately what must be done, but of course, our job is to determine exactly what has to be done.

Now, the first task force that we want to hear from is task force No. 8. Is there any representative of task force No. 8 here? Are any of the members with you, Al?

Mr. ELGIN. Mr. Jim Bluestone, our task force specialist is with us, Mr. Chairman.

Chairman ABOUREZK. I wonder if you would, as concisely as possible, relate to the Commission some of the things that you have been doing since you have gone into existence.

STATEMENT OF ALFRED ELGIN, CHAIRMAN, TASK FORCE NO. 8; ACCOMPANIED BY JAMES BLUESTONE

Mr. ELGIN. As you know, our end result is going to be the final report that will be our part of an assignment given to us by the Commission.

Some of the areas that we are very concerned about is the nonrecognition or the noninvolvement of American people for many, many years, as we have stated before, having little or no visibility in the past, and having no legal basis to be involved in many areas, or no appropriations being set in motion—the minute legal implications.

We have set out, as our task force assignment, to gain that visibility, and to have that direct contact with the constituents that we—for the sake of the Commission—identified as urban and rural nonreservation.

We find a strong opposition to the further dividing of those kinds of terms. We have explained to our peoples that that has only been given our geographic or our terminology as applied to how we would be involved with the total Commission.

Chairman ABOUREZK. Would you tell us, in a couple of sentences or a short paragraph, exactly what you believe are the objectives of your task force? What will the recommendation be? What do you think the objective of your task force should be?

Mr. ELGIN. Recognition of the base population of urban Indians; and somehow, include into that the mechanism of service delivery of all agencies of the Government now.

Chairman ABOUREZK. By recognition: Do you mean that they should be recognized by the Federal Government as an Indian population and Indian entity, separate and apart from reservation Indians?

Mr. ELGIN. No; I think the jurisdiction needs to be identified here.

In many cases, we are finding that there is little or no jurisdiction. Once the Indian leaves the reservation, either that Federal kind of involvement ceases, or there is no respect for the intercommunicational coordination program between Federal and State.

Once the Indian leaves the reservation, he is no longer a tribal person. For the sake of involvement and programs, he becomes swallowed up into a minorities type of program involvement. And, consequently, this is a two-way street here.

We are trying now to identify where that jurisdiction ends and begins. A lot of this is coming back to the Snyder Act, and whether or not we need new legislation or whether we just need implementation of past legislation that has never been put into effect for many people that are off the reservation.

Chairman ABOUREZK. Specifically, are you talking about delivery of Federal services? What is your specific objective in regard to that statement?

Mr. ELGIN. Only that under the present authorities that full benefits be given to those people that are declared to be eligible. A lot of people are assumed to be ineligible because of the false assumption that the Bureau of Indian Affairs take care of Indians wherever they might be, and we know that not to be the fact.

Chairman ABOUREZK. You say it should be the fact and is not the fact?

Mr. ELGIN. We are not saying that should be the fact because we realize that the Bureau of Indian Affairs only operates under its authority, and most of that authority is on a land-based type of problem.

Chairman ABOUREZK. Has your research told you yet whether or not the Bureau of Indian Affairs does have that statutory authority?

Mr. ELGIN. Seemingly, and in hearings that we have held in our review with certain elements of our constituents, they assume that the Snyder Act can cover people and the Bureau has not put that into effect yet.

Chairman ABOUREZK. That is only in discussion with some of the people. Now, have you had any research done on that?

Mr. ELGIN. There is research being done on that now. And, what percentage is complete, I don't know at this particular point.

Chairman ABOUREZK. So you can't show, at this time, whether or not the BIA is legally obligated?

Mr. ELGIN. No; that is part of the further studies. About the end of the third quarter, that will all be coming together.

Chairman ABOUREZK. All right. Have you, perhaps, looked at the politically realistic possibilities with regard to the delivery of services to urban Indians? You know, we constantly hear about this. We talk to the BIA and Indian Health Service about urban Indians, and we are always told there is not enough money for reservation Indians.

Reservation Indians complain if urban Indians become recognized it will dilute the amount of money being given to reservation Indians.

What is politically realistic in terms of delivery of services? Say, for example, health service units in the cities where there are large Indian populations.

Have you looked into that?

Mr. ELGIN. Basically, more appropriations would answer the problem of extension of services. But even basically, when you get into the involvement of the Bureau of Indian Affairs and the Office of Education in the education kind of field, where some of our people do not know whether they are eligible or not, there seems to be a lot of areas where administrative decisions alone restrict declaring people ineligible. Sometimes, based upon the inadequacy of funds, there is a higher priority placed upon those that would be eligible under a trust status kind of obligation.

Chairman Abourezk. All right. But, has your task force yet determined how much money this would cost?

Mr. Elgin. No, sir; we have not.

Chairman Abourezk. And in what cities the health services ought to be?

Mr. Elgin. No; we have not.

Chairman Abourezk. Do you intend to do that?

Mr. Elgin. Yes.

Chairman Abourezk. So, roughly, your statement, when it is completed, will consist of a statement of what you think the law is based upon legal research upon what kind of health service or other Government services should be delivered to urban Indians by the Government under the law, and whether or not we can politically expect appropriations to be made. Of course, to do that, we would have to know what the cost would be, and where the urban Indian populations are. Whether or not you ought to put, for example, a health service clinic in Los Angeles, or in Reno, Nev., or wherever.

We can expect that kind of a report from you at the end of the time?

Mr. Elgin. Yes, sir.

Chairman Abourezk. With good statistical background and data backing up all of those statements?

Mr. Elgin. In the absence of a firm population base, the 1970 census, so far, are the only figures that we have that has been used. However, we are working with those communities now, trying to get service population based on actual experience.

Yes; we hope to have those figures for you.

Chairman Abourezk. I will tell you what would be helpful, also, Al, as far as I am concerned, is to have an official statement from the Bureau of Indian Affairs included in your report. Stating what they believe the law is aside from, in part, what you claim to find. And whether or not they think it is feasible, so far as cost is concerned, to deliver these services that you believe ought to be delivered.

In other words, get their viewpoint so that we will know what we have to combat once we come around to that.

Mr. Elgin. Yes, sir.

Chairman Abourezk. Do any other Commissioners have any other comment?

I would like to welcome Commissioner Adolph Dial.

Do any other Commissioners have any questions of this task force?

Commissioner Bruce. I would like to ask a question, Mr. Chairman.

Chairman Abourezk. Commissioner Bruce.

Commissioner Bruce. Al, in the hearing in Phoenix a couple of weeks ago, we had a statement made by, I think, a representative of an organization there about opening the hearings to everyone.

Her complaint was that the urban Indian on the street was not allowed to come in and testify. I don't know whether you looked at it all, but she gave a whole paper on the lack of planning on the part of the task force.

We know that was not true, because you did meet with the organizations and people the Friday before the Monday hearing.

Did you run into that kind of a situation? The press did deny that, and I wanted to clarify that. I wonder whether you ran into the same thing?

Mr. ELGIN. Not in the same circumstances, Commissioner. We did run into it in Los Angeles. They changed our meeting room from the power and light company to the police auditorium. We received a very nasty letter on that saying that we restricted a lot of people from coming to give testimony in the police auditorium. We have not received anything similar to the Phoenix area of the restrictiveness of the man on the street.

Commissioner BRUCE. In the other hearings: Did you get any requests from individuals who wanted to come up and testify? I know our day was filled with testimony when I was there in Phoenix. We couldn't have taken anybody else unless we wanted to run until midnight.

But in the other: Did you have any individuals——

Mr. ELGIN. We had ample time at the other areas. We strongly recommended that the hearing was only the visible part and one of the initial parts of getting involved in the communities. We made certain that the word was that written testimony could be forwarded to our office to be included as part of our research study.

But, we had ample time in San Francisco and in Seattle.

Commissioner BRUCE. That is all, Mr. Chairman.

Chairman ABOUREZK. Commissioner Deer.

Commissioner DEER. I have several questions. I know that you have had a lot of experience, now, in this whole urban area, Al. Would you tell us how you feel the work of the task force is progressing? Are you on schedule in your own mind?

Mr. ELGIN. I think that we are; yes. Most of our work will be based on the field hearings and the analysis, and the value of what those field hearings give to us in the way of the community and the needs there.

Based upon that, and coupled together with the research being done within the office here, I think that we are right on schedule with what we anticipated. Some things we have not anticipated, however, is the political kind of arena that we have gotten ourselves into.

As a task force, it is very easy to identify our kind of workload and the things that we want to accomplish. But, at the same time, it is hard to try to identify what the feelings, or the mood of the Commission, itself, is. Because the Commission, itself, is apart from us as a task force. We are only one integral part of that political kind of mismatch, so to speak.

The area that we are working in—the urban area—has never been touched. There are a lot of things that are variables. But as far as our work is concerned, I think that, yes, we are running into areas that we anticipated. It is now the collection of data and the analysis of it, and trying to somehow set in motion the end result of what our report will really bring about.

One of the concerns that we do have is how forceable this report will be in the overall Commission report that influences and sets the policy that includes urban Indians?

That is our concern right now. But as far as involvement and getting into our area: We feel that it is going quite well.

Commissioner DEER. One of the points I see in your report is a description of the problems. What consideration are you giving now to pulling these together and defining the issues? It seems to me that in each task force there are various issues to be defined. In some, the task forces will be able to get into it; and some, they will not be able to get into it. It would really be important to have a clear definition of issues, not just a description of problems.

How are you going to address that?

Mr. ELGIN. One of the key words that we are getting down to right now in our task force is jurisdiction, and if we could identify jurisdiction in terms of Indian identity.

Another of the questions coming up is: Who is eligible for services, and who has jurisdiction to provide those kinds of services? On the reservation, it is clear cut as to the mechanism as to how that service will be delivered, or their eligibility. But when it comes down to the group that we are working with, or relating to, the question of jurisdiction stands foremost.

We are trying to progress by working back from that viewpoint. A person may be eligible for services, but if there are no services made available to take care of that need, then we need to get into the appropriations and the law itself. But we are working toward that particular end of our report.

Commissioner DEER. It seems to me that this is where you could make use of consultants. And also, in the previous hearings that were done by the National Council on Indian Opportunity: Has there been a review of those hearings? Is there a duplication of those efforts that they have already done?

Mr. ELGIN. Perhaps Jim could address that.

Mr. BLUESTONE. Those will be part of our review and will be accomplished by the third quarter.

Chairman ABOUREZK. I would like to welcome two more of our Commissioners. Commissioner Sid Yates and Commissioner John Borbridge.

Adolph, do you have some questions?

Commissioner DIAL. Yes. I have a question.

Mr. Elgin, are you working with urban nonfederally recognized Indians as well as urban reservation Indians? And if not, why?

Would you comment on that, please?

Mr. ELGIN. I guess the involvement that we had at the hearing level has been a coordination of efforts. There has been testimony that would relate to other task force work. So, in the inclusion of that. I think that we have been hearing some of their testimony. It is hard to define, though basically, we are not.

Commissioner DIAL. What are you planning to do?

Mr. ELGIN. Our plan in the future is to sit down with task force No. 1 and find out our coordinative effort, and our areas of responsibility, so no one will be excluded who is not under the trust status design.

Commissioner DIAL. Thank you.

Commissioner DEER. I, again, would like to emphasize the importance of defining issues. One of the questions that I am getting asked, in my passing knowledge as a chairperson: What are the tribal rights of the urban Indian? One thing all of us have to keep in mind, as we have our hearings and our meetings, is that by doing this, we are raising the expectation level of many people.

They think that by telling us, they have resolved the problem. We need to ask what solution people have. What about tribal rights for the urban Indian? How are you going to handle that?

Mr. Elgin. We are becoming more involved with that with the passage of Public Law 93-638 which is to strengthen tribal government. Some of the interpretation of that, call for any person living off the reservation has to identify with a tribal government or somehow relate in that regard to be eligible for services.

So, these are questions that are being posed by people. We are asking people in that regard: Now do we really identify with a tribal government, per se? How do we become more involved with the programs that declare eligibility on those kind of statutes?

The contract services under Indian Health Services, and other areas, are related to that interim involvement. That goes on further to say about the jurisdictional level. Who has jurisdiction? Who is declared to be eligible?

We are running into those problems. At this particular point, we have no clearcut answers. But we are getting a lot of feed in and there is a lot of comment being handled in that area.

Just yesterday, in our Billings hearing, the Chippewa's testified on their problem of having been off reservation and been declared ineligible for services because of their status. They had not been living on their land base for the last year. They are very intent on finding out what their eligibility is, and what their status is in relation to their tribal government.

Commissioner Bruce. Al, you had a lot of key questions here that I am sure you are looking into in your report. What is Federal recognition? And what is trust responsibility? Also, you sent out a questionnaire. What response have you had from that questionnaire?

Mr. Elgin. Yes. We sent out two questionnaires: (1) an organizational questionnaire defining the status of certain area profiles and their involvement with the Government policies; and (2) an individual questionnaire as to what the individual has been involved with in the policies of the Government.

We have not received an adequate response to that as yet to determine what that will be. But as we go from hearing to hearing, those questionnaires are being filled out, and at a later date, we will have more knowledge as to what the answers are to some of those questions.

Commissioner Bruce. In your report you say the overall progress is 30 percent. Does that cover everything, to this point, as far as the task force is concerned?

Mr. Elgin. Jim would have a better knowledge of that, Commissioner.

Mr. Bluestone. The overall status of the task force progress is 33.6 percent.

Commissioner Bruce. Is what?

Mr. Bluestone. Thirty-four percent of the task force objectives that we have set out in our scope and plan of work.

Commissioner Bruce. You have one listed at 10 percent.

Mr. BLUESTONE. These are secondary objectives. I think on February 6, we assigned a consultant to work on our secondary objectives. One of the impact studies of the BIA appointment.

Commissioner BRUCE. So you just started on it?

Mr. BLUESTONE. Right. We just started on it February 6.

Chairman ABOUREZK. John or Sid: Do you have any questions?

Congressman YATES. I think it is a little early for questions. I don't mean today, but they are just starting the work. I notice, Mr. Chairman, that in the hearing of the Appropriations Subcommittee on the Department of the Interior for 1975, I had some conversations with Ms. Hanson, who was then the chairman of the subcommittee about the urban Indian. The disagreement we had at that time was the attitude on the coverage of urban Indians with the benefits that were available on reservations. Ms. Hanson decided, at that time, that the funds we were appropriating went to the reservation Indians and none went to the BIA. It went to the nonurban Indian.

I wonder whether that is still the same situation? I am trying to change it, as the successor of Ms. Hanson, but I wonder what the task force has experienced in this connection, and whether you have had any experiences yet that you can relate to us?

Mr. ELGIN. Yesterday, in our hearings in Billings, this particular question came up—with regard to the involvement of HEW, the Office of Education, Appropriations, and the Bureau of Indian Affairs, Higher Education Branch—about the involvement. Sometimes there is dual. And so far there is no involvement at all in some cases.

But according to their statement yesterday. Even if some of the off-reservation people were declared to be eligible for services under the BIA grants, they were fifth in priority. And when it came down to the actual appropriations and being involved in the program, they were so far down the priority list that no moneys were available.

That is just one involvement as we heard testimony yesterday.

Congressman YATES. As we brought our appropriation's bill through the House Appropriations Committee, we made funds available for the treatment of urban Indians in separate clinics in some of the cities.

In making funds available for clinics in Seattle and Minneapolis, and a few of the other cities, members of the committee asked me why Indians do not go to the regular HEW clinics that were available for those who could not go to other facilities.

I represented to the committee at that time, that Indians just didn't feel comfortable in going to the HEW clinic. That there was a special need for the Indian clinic. I think that it was accepted by the members of my committee, and it wasn't raised on the floor when the bill was presented.

But I think this is one thing that you might want to keep in mind as you proceed with your work. You will have to identify a need for urban clinic for Indians, separate and apart from those that are used by other people.

Mr. ELGIN. The other part of the data to the statement I just made is: In many instances there is no clear-cut policy as to how or whether urban Indians will be included or not included. Mainly, administrative decisions at many levels.

Congressman Yates. I think that is true, and I think the force of our committee has persuaded the BIA to move in that direction rather than requiring the urban Indians to use available clinics.

And I believe it is going to move.

Chairman Abourezk. What day is your report due? Do you recall the date?

Mr. Elgin. August 17.

Chairman Abourezk. Your final report is due August 17?

Mr. Elgin. Yes.

Chairman Abourezk. Do you foresee any problems in having it completed by then?

Mr. Elgin. Our main field of work will be concluded by the middle part of April, and we don't see any difficulty with that date.

Chairman Abourezk. Middle part of April?

Mr. Elgin. Yes, sir.

Chairman Abourezk. OK. In listening to the other Commissioners questions here, I guess just to summarize them, this is not specifically directed toward you and your task force, but as a general position using just examples from your task force.

It would be good for the task forces to find out what the rights are of the Indian people by going to the law and having legal research. You have got that underway?

Mr. Elgin. Yes, sir.

Chairman Abourezk. What are their rights as urban Indians? What are their rights as reservation Indians? What rights has Ada brought up? What rights do they have back on the reservation?

It may be that you will determine that the only feasible kind of Federal service that can be delivered for urban Indians is health care. It may be that there is something else that can be feasibly provided. We don't know until you finish the research.

Congressman Yates. What about education, at least, in some of the cities in the West?

Chairman Abourezk. That is a possibility that that can be one, and maybe the money might be expanded.

Congressman Yates. We encountered that yesterday in committee. There are two, apparently, coordinated acts. The first act provides for Indian education; and then Public Law 93–638 came along. And BIA is now holding up funds for four Indian schools in Arizona and in New Mexico because they are not sure how or whether they are allowed to fund under Public Law 93–638 until funds of the HEW allocations are first distributed.

We are presented with questions of whether there ought to be a rescission of the money we made available for the four schools.

So, I think they are going to encounter this as well.

Chairman Abourezk. That is true. You might have to determine some of the urban areas and whether there will be any new laws with regard to impact aid for education. For example: We are having a problem in South Dakota on the Johnson-O'Malley schools that have a sizable Indian population that do not qualify for basic operating expenses, even though they might need basic operating expenses because of a lack of tax base.

In that event, we will need a new Federal impact law to provide for the first student contribution from the Government to those school districts to help in the basic operation. Johnson-O'Malley, as you know, is specifically for Indian education, and that would be provided on top of that. But, nevertheless, you would find out what their rights are. You would find out what the Indian's problems are in the cities, and try to match the two as best you can.

In a general sense, that is about it.

Does anybody disagree with that statement?

Then provide us with a factual recommendation of what the rights are with a good well-documented record of what the Indians, themselves, say their problems are, because we are going to have to present all this to Congress.

When your report comes in, we have to have that documentation. And if we are expected to act legislatively on the Commission's report, then what we want to avoid is once we get that report, we don't want to go through another 5 years of hearings to obtain all that information.

Of course, that is why we have the Commission itself and the task forces; just to obtain that information for us. You, in effect, are acting as a congressional subcommittee, informally, trying to bring in the documentation to back up the past legislation and the total end result will be a recommendation to Congress as to what it should do. It will be the new Indian policy for the United States.

Do you have any questions? I guess we should ask you. Do you have anything you want to ask about what you might be doing or might not be doing?

Mr. ELGIN. One concern that we have in facing the people that we have been in contact with is to qualify what we are doing. It seems like a lot of our people are very concerned that there have been too many task forces in the past that have produced nothing. We have been doing our best to try to convince them that we are different.

And second, is the documentation of fact. A lot of people mistake documentation for, just orally, reciting their problems. We are having a little difficulty in identifying how do you get people to document facts?

As you know, many of our people are involved with Government, and you don't really bite the hand that feeds you. Because, in some cases, their contracts are on the line. Department of Labor contracts, and other kind of contracts that people are not very free to say what the real problems are unless we go back and talk about the statement of facts and the documentation of how contracts were sublet, or whatever.

And so, it is not a very easy task in some regards. But we are working toward that end of proper documentation.

Chairman ABOUREZK. OK. Are there any other questions, then, of this task force? If not, I want to express my thanks to you and we look forward to your final report.

Mr. ELGIN. Thank you.

Chairman ABOUREZK. Before we call up task force No. 1, I want to make an announcement. I am calling, for the first time in the life of the Commission, a set of hearings to be held by the full Commission.

I have determined that there are two major areas that are covered by task forces, but that are, in my view, so major that the full Commission ought to conduct hearings of these two important areas.

One of them is reservation development and the other one is the structure of the Bureau of Indian Affairs. Structure in the place and the universe of where the Bureau of Indian Affairs ought to be. Because those two things, I think, determine more the quality of life of Indian people than anything else.

So, the first set of hearings that we have obtained dates for——

Congressman YATES. Mr. Chairman, what do you mean by reservation development?

Chairman ABOUREZK. Reservation industrial development, job development.

Congressman YATES. Economic development?

Chairman ABOUREZK. Economic development. Right.

I have obtained a date for the first hearing which will be May 8 this year, in Denver, Colo. We don't have a room yet. So the subject of the hearings will be the structure of the Bureau of Indian Affairs. At that time, we intend to hear testimony from Indians all throughout the country on what they believe the BIA ought to be doing. Whether it ought to be under the Department of the Interior; whether it ought to be, in fact, within the jurisdiction of the Interior Committees of the Congress; or a special committee; or whatever.

We intend to set up those hearings in advance and obtain testimony with that objective in mind. We will put out a formal announcement at a later time when we get the room and specific times. And then, when we clear dates for the other hearings, we intend to hold those somewhere in the Southwest as soon as we can get the dates cleared for the hearings on reservation development.

Will task force No. 1—Hank, are you the only representative? Do you have anybody else with you?

I understand that your specialist has resigned. Is that correct?

Mr. ADAMS. That is correct, and he will be on staff until the end of February.

Chairman ABOUREZK. Is that a specialist you have with you here?

Mr. ADAMS. This is one of our research assistants, Kevin Gover. We have another research assistant, Bill Johnson, and we will be adding to our staff. I am requesting the Commission—and I will do this in writing—that we not fill the specialist position but we just bring on additional research and secretarial people.

Chairman ABOUREZK. Hank, first of all, I want to—on behalf of our Commission—express our gratitude to Bruce Davies, the specialist who has done good work with your task force. We regret his resignation.

Mr. ADAMS. In that same regard, I would express the task force's appreciation to Bruce for his valuable work for the task force and the Commission.

Chairman ABOUREZK. Now, Hank, to begin your report to the Commission today, I wonder if I might ask you, as I have asked and I will ask all the task forces, to state first of all what you believe the objective of your task force to be, and how you are carrying that objective so far as providing us with a report.

STATEMENT OF HANK ADAMS, CHAIRMAN, TASK FORCE NO. 1, ACCOMPANIED BY KEVIN GOVER AND BILL JOHNSON

Mr. ADAMS. Essentially, what our task force has been involved with is the determination of just what the rights of the Indian people are. Their sovereign rights, their political rights, and what is the character of obligations owed to Indian people in their unique relationship with the United States, a rather unique relationship, perhaps without parallel between any other two peoples in the world.

So, we are studying, first, what are those rights in a definitive way. Second, more or less trying to determine what the implications are for the national commitments to Indian people for the future, and what the rights of Indian people are to a future in this country.

Essentially, we are narrowing down to a series of legal definitions. We are also looking at what is necessary to allow Indian people a future. Where, really, it is necessary to give permanency to Indian life in the United States——

Chairman ABOUREZK. In your search to find out what the rights are of the Indian people: Are you basing that search more on the treaty agreements between the United States and the Indian people, or do you go beyond that?

Mr. ADAMS. We go beyond that to the development of the relationships, the difficulty of the relationship between Indian people in European nations before there was a United States, and just what were the principles of law and legal practice that joined Indian people in a relationship with the United States at the point of independence.

So, we do find, and we have developed pretty much on the legal principles, almost a bill of rights for Indian nations that existed at the time of the formation of the United States. They are the legal principles that were relied upon by the founders of the nations—the U.S. Supreme Court in its decision and starting to develop the doctrine of Indian rights. It goes to questions of sovereignty. It goes to questions of the national character of Indian people; their rise to economic independence, and in forming a protectorate or trust relationship.

It becomes an obligation to effect some other objective than the structure of the people.

Chairman ABOUREZK. I hope that in your report, you will be able to make the distinction with respect to a question I am often asked and I think everybody else gets asked the same question.

Why not have a "Bureau of Black Affairs" and why not have a "Bureau of Chicano Affairs"? Why do we have to have, specifically, a Bureau of Indian Affairs? It is an argument that is brought up and it needs answering everytime it is brought up. I hope you will provide the Commission with that answer in your report. To make and to explain why other minority groups, for example, do not have this unique relationship vis-a-vis the Federal Government.

What is the date of filing of your final report?

Mr. ADAMS. July 21, 1976.

Chairman ABOUREZK. Do you see any problems with having the report into us by that date?

Mr. ADAMS. No; we don't. We have advanced the deadline for ourselves to give us some heading on time.

Chairman ABOUREZK. Are there any other questions by Commission members?

Congressman YATES. Mr. Chairman, how much work have you done with the question of trust responsibility? This is of particular interest to me. I was asked by the Secretary of the Interior about it and by the Commissioner of Indian Affairs, when he comes in. I really never get a precise definition.

Are you interesting yourselves on a real definition of what the trust responsibility is of the United States?

Mr. ADAMS. Yes; we are. I think we may provide a most comprehensive and definitive statement of what trust responsibilities are and where the groups really lie. Just in the past year, in 1975, you had Federal courts of appeal on two ends of the continent giving completely different descriptions of the trust responsibilities; trust relationship; where it originated; and what the character of that trust relationship is.

You have almost a redefinition of trust responsibilities in the Bureau of Indian Affairs, and in the Department of the Interior. Unfortunately, these definitions have often reflected on the policies of the moment that has mitigated against standing clear a definition of trust responsibilities.

Congressman YATES. Is either of those cases going to the Supreme Court?

Mr. ADAMS. They most likely will. One is a zoning case, and the other is a case in Maine which says that the trust relatonship was established to all Indians in the United States by virtue of the First Indian Trade Act of 1787 or 1789. And the other court says that the trust responsibility to trust relationship is a legal fiction judicially created and then passed back and forth between Congress and the courts to develop a concept that this country has, or just a mish-mash of complications.

Congressman YATES. Has the Congress ever declared that a trust relationship exists?

Mr. ADAMS. Yes; it has by giving form to trust relationships rather than, say, having an origin. Justice Marshall's analogy that it was like a trust relationship in a decision in 1831 or 1832. You have some of the first treaties with tribal funds going into the Treasury of the United States to be held in trust, and the treaty with the Cherokees——

Congressman YATES. Hank, do you have a brief on this yet? Is there something I can read?

Mr. ADAMS. I did send some of the descriptions of trust responsibilities over to your office. However, I sent you just a range of the differing statements. We haven't formulated the outline of how we are going to go. But we do go back to origin in the colonial period when there were some specific standards on trust responsibility, even to providing lawyers to the Indians of New York and a couple of other States, to protect their interests both against non-Indians in the community, but also, to protect their interest against the trustees that were established.

Congressman YATES. What about the Supreme Court cases?

Mr. ADAMS. Here again, you get some very difficult documents to deal with in relation to trust responsibilities. In fact, a claim of the power that arises with trust responsibilities in a case, 1902, I think, *Lone Wolf* v. *Hitchcock*, where, in the name of trust responsibility, the Supreme Court said what the duties were to carry out the trust responsibilities, arose the power that allowed Congress to potentially abrogate treaties at will.

So, you have situations where trust responsibility becomes the most destructive element to treaties. We think that any competent review of that by the Supreme Court, at this point, would probably rule out the view that came before the court or was issued by the court at that point.

Congressman YATES. Will that question be presented in either of the two cases you cited as having come from the courts of appeal?

Mr. ADAMS. No, it won't, I don't think. The *Agua Caliente* case doesn't have a treaty involved. You do have a treaty involved in the other case, but it is not at issue. It is just an issue of whether a trust relationship has been passed between the Passamaquoddys and the United States.

Congressman YATES. Will you address yourself to the bill that has been filed in Congress to establish a trust council?

Mr. ADAMS. Yes; we will. I think we are getting a lot of adverse reaction from Indian tribes relating to trust council authority as being inadequate. We will define as to both powers and some other aspects. We think we will be advocating some other form of protective agency.

Congressman YATES. Thank you, Mr. Chairman.

Chairman ABOUREZK. Any other questions?

Commissioner DEER. I notice that you have had a delay in your report because of the hearings. The first question that comes to my mind is: Do Indian people, themselves, understand what the trust relationship is?

Mr. ADAMS. I think much of that comes from the U.S. Government. I would like to add something relating to the prior task force that came before us.

When you are talking about urban Indians, you are dismissing them frequently on a question of eligibility. We are finding on reservations where there is no denial of eligibility, that there is a very large denial of services. Like on the reservations where we were last week: You have villages that are larger than 75 percent of the reservation populations in the country who get no services whatsoever.

We find them with no water sources within miles. We find them without housing. That in the face of all their eligibilities, we find them with nothing. This is part of the issue that you have to address when you are bouncing people around on the question of eligibility.

Take the Yakima for instance. They have a population of 10,000 and one-third of their people are off in cities away from their reservation. It is a real drain on their tribal budget to care for their people who are away from their reservation, as well as to care for Indians of a comparable number—some 3,500 from other reservations—to serve them and their tribal resources under an open-door policy and the policy of caring.

These are issues that seem to relate, primarily, to reservation Indians. I think that is a real misconception. We are getting very thoroughly involved with Indians who are away from their reservations and in cities.

Commissioner Borbridge. Mr. Chairman, I would assume that in your coordination with task force No. 3, you are not only reviewing policy, as policy has been announced and as it has been implemented or not implemented, but also, you are examining at that same review those areas where the Bureau, for reasons of its own, has simply taken a very reluctant role and chosen, in some instances, not to be an advocate. Just as one example.

We have found that whenever there are funds that, in this instance, belong to Alaska Indians and are to be deposited in the Treasury of the United States, the Bureau takes a very serious position of insisting, as much as possible, that interest not be paid in certain instances on the basis that this might be construed as an expansion of a trust relationship and, that the Bureau does not want to engage in an expansion of a trust relationship. Although I have felt they very often don't want to define it either. But in your review, you will not only be reviewing the actual policies as implemented, but you will have an opportunity to note those areas where the Bureau simply has not moved in. Where, in the opinion of your task force, there are some very obvious things that could have been done in this direction.

Mr. Adams. Yes; this is correct. One thing that is true about a trust relationship is that there are some legal obligations that aren't supposed to be just discretionary or matters of policy.

Like, if it were pure contract law, the Bureau would be less able to break these specific obligations of that contract. There are specific obligations coming with the trust responsibilities that the Bureau never carried out, and you are citing one instance. An instance that, unfortunately, has only found remedy in courts of claims and in the Indian Claims Commission.

But, this is one of the things we are doing. We are looking for some alternative to developing claims and methods of dealing with the obligations, and the problems now. And a 100 years from now saying, you owe us that interest that you denied.

Commissioner Borbridge. I would hope that in the work that is done by the task force that you are chairing now, and also, task force No. 3, that while we are examining the technical aspects of the obligation under law, which are very strictly defined by the Federal Government and implemented by the Bureau of Indian Affairs, that there will be an examination then, and perhaps some conclusions on a broader scale which, in my view, pertains to the matter of advocacy of the Indian interests as you have noted.

With respect to contract negotiations, my experience has been that we, the Indians, and the Bureau assume a very odd relationship. It has been reluctantly acknowledged that there is an opportunity to contract. Then, at the negotiation process, the Bureau takes the position and in order to try to negotiate, perhaps, as strong as possible or if there is a question of definition of a specific responsibility based on legal definition, again, the Bureau has shown a decided propensity to take an adversary position in that instance.

I hope, as you indicate, there is now a very precise definition and analysis of the obligations that the Bureau has under law. That the broader question of the failure or success of the Bureau as an advocate of the Indians is not overlooked.

It may not be technical, but it certainly is an all-pervading issue I think.

Mr. Adams. I would like to raise another issue that is very pressing now in the country which relates to trust responsibility. It is just the denial of services through personnel ceilings. The impoundment of funds. Personnel ceilings that deny the 3 million acre, 11,000 to 13,000 Papago Tribe from having a more permanent——

Congressman Yates. Who imposes those?

Mr. Adams. It is mostly the Office of Management and Budget that is preventing the Yakima Tribe and the management of their board. Personnel treatments are annually losing more than \$6½ million because they can't manage with those limited personnel who have the trust responsibility for managing and making sales.

Congressman Yates. How is that money lost?

Mr. Adams. It is lost through failing to cut trees that should be cut. It is lost by failing to bring in the management personnel for identifying trees that should be thinned. Commercial thinning in order to give greater growth to the forest.

You have a comparable forest, national forest, just adjacent there. They have twice the personnel just for management purposes, and, it has a smaller yield of timber. But on the personnel comparisons of what the United States is doing with its resources and what is being allowed for tribes, you can see a great economic loss and a great future loss to the forest production.

Chairman Abourezk. I just want to make one comment, and this goes for all the task forces.

That when you do file your final report, I think what is especially important is that you have specific legislative recommendations which are needed to carry out the objectives of your particular area. And in a form that we can take to the legislative counsel and have drafted into law. You don't need to put in the technical language, but you need to state what legislation must be drafted in order to accomplish whatever the purpose is that our task force has set out to achieve.

I won't need to say that for all the task forces, but I hope you all understand that.

Commissioner Bruce?

Commissioner Bruce. Hank, you are doing some studies in the area of forestry?

Mr. Adams. Yes; first we are doing a study on the reservation, and we are doing a study on the adjacent national forest lands. We are doing some cost comparisons and some economic contributions to the local communities or counties, and just seeing who is getting the benefit of what resources.

We are then going to 15 other major forest-producing reservations in the country for additional comparative data on management practices, and on the economics of the forests. There is a wide range of situations and conditions, but we find a total betrayal of trust responsibilities and commonsense in a number of them.

Commissioner Bruce. Are you working closely with Task Force No. 1, I think it is?

Mr. Adams. We are Task Force No. 1.

Commissioner Bruce. The structure of what the total involvement of Indians ought to be, and I think it ties right in with——

Mr. ADAMS. Federal administration?

Commissioner BRUCE. Yes.

Mr. ADAMS. We are working on some of these same issues that we have had some contact at the task force member level. We are getting somewhat involved with administration, because we find many people in the Bureau, as well as many Indian people testifying that the BIA is not structured to carry out the responsibilities that we are setting.

We find that, say, for the Navajo Reservation, the Management Division has 12 employees. Sixty percent of them are clerks and none of them have any professional capacity to supervise, say, the $23 million resources that are being released every year under the contract and there are losses.

It is a tremendous loss to the Navajo Tribe.

Commissioner WHITECROW. Hank, with regard to a letter that you wrote on February 9 to the chairman concerning a letter that you received from Congressman AuCoin and I am assuming that has to do with hunting and fishing rights, particularly in our areas of concern in the Northwest.

The content of your letter gives me the impression that we seem to be having some difficulty in the local area there in regard to hunting and fishing rights. And I was wondering if you are actually receiving any opposition to the gathering of data and the gathering of information in the area of hunting, fishing, and water rights.

Mr. ADAMS. In the area of hunting and fishing rights: We have 400 barrels of documents that are very current and up to date as recent as last week. We are not encountering any difficulty from the drives. We have yet to receive certain information from the States there.

In reference to that particular letter, there is a blackmail effect that is being asserted against a restoration of the Siletz Indians who were terminated in the early 1950's, saying that they don't disclaim forever their hunting and fishing rights. Or, if we don't get some action against the treaty—reserve rights of Indians in this area—then we are going to stand against the restoration of this Indian tribe.

There is very strong political pressure to abrogate treaties relating to hunting and fishing across the northern plains, the Pacific Northwest down into California, or to buy Indians out where they possess rights.

One of the most racist situations that we are confronting is in the Pacific Northwest, and we are confronting it on the water rights in Arizona where you have a very small percentage. A fraction of 1 percent of non-Indian users of resource commercial fish in the Northwest. They had the usable water in the Southwest. You have less than 1 percent of white people claiming a right in behalf of non-Indian nonusers of that resource.

So, you have 6,000 commercial white fishermen in the States of Washington and Oregon saying that, because they are white and 99 percent of the population is white, that they should have 99 percent of the resource. The same argument is being made in Arizona and New Mexico by a handful of non-Indian farmers who think they should have 99 percent of the water.

Commissioner WHITECROW. From the standpoint of my personal involvement with this Commission, I would like to request that you and each of the other task forces give this a very, very sincere approach.

A very sincere and thorough study because I certainly am sure this Commission would want to make recommendations that will be uniformly acceptable and will be equitable in the extent and utilization of water, hunting, and fishing rights.

Mr. ADAMS. I would note in the Congressman's letter, he reflected part of the problem where he referred to the Indians' claim to superior rights and uses these emotional code words that, you know, betray that understanding of the problems or the facts.

Essentially, when the tribes in the Northwest are claiming an equal right with the State of Washington, they are coequal sovereigns related to that resource, and to argue there are superior rights distorts the issue. The U.S. Supreme Court, this month or in January, did uphold the treaty rights, and they are standing as coequal with the State in relation to these resources.

Commissioner DIAL. Are you far enough along to know how your budget is working out, Mr. Adams?

Mr. ADAMS. At this point, I think if I keep losing staff—no. We projected earlier that we would come in under budget. We would come in around $100,000, and we are pretty much on that projection. The other two members of the task force have budgeted their time for the final 4 months of the other task force, and we will undoubtedly be needing to bring on some additional staff to work with us during that period when they will be here in D.C. working on a final report.

So, I think we are just about on budget. Our time is budgeted different than our money so that the percentages on the exhausted budget are not an accurate reflection of where we are, or where we are going to go.

Additionally, the last accounting doesn't account for certain census that occurred in January for several reasons.

Commissioner WHITECROW. Mr. Adams, are you also receiving pretty good coordination within the Commission structure with other task forces? Are you finding that all of your personnel, within your task force operation, are cooperative and are willing to expend all of the time and effort necessary to accomplish the objective of the task force?

Mr. ADAMS. Yes. I think that has been true in the past, as far as our own task force and personnel, especially. Others have been concerned. I think it will be true in the future. There have been some problems that are noted in the quarterly reports from time to time, an infrequent failure to recognize that our task force was structured different from some of the other task forces.

Commissioner WHITECROW. Are you having any trouble with getting all of your task force members to attend meetings?

Mr. ADAMS. No. Not in context with our planning. There has been no difficulty. We try to assign different regional areas to different members of the task force. So, that when their schedules occur in that particular region the person who is assigned an area will make the first attempt to cover it, and if he can't cover it then, one or the other of the two of us will.

So, there has been no problem in calling meetings or getting together when we have needed to.

Commissioner WHITECROW. Thank you.

Commissioner DEER. What has been the reception in the hearings that you held? Do you feel that people who have testified have given adequate documentation, have shared information freely, have held back, or what?

Mr. ADAMS. I have been fairly pleased with the amount of preparation that has been put into these statements that have been offered to us. We have found tribes, just opening their accounting books to us. They have been opening their files to us.

The one thing that we try to be careful not to do is to try and make demands for information that we can secure easily from some of the tribes. Particularly information that is held back here or in one of the Federal agencies.

There has been fairly good reception. We had one problem in conflicts of scheduling in Reno, Nev., where we didn't get a full complement of witnesses that we wanted. But we did have statements from the largest tribe in the State as well as the six local colonies. But, there was just one statement that was fairly well documented. It was really great information and when I got back here to District of Columbia, I found a GAO report that it had come from, almost word for word.

But other than that, there has been an effort and some real labor put into putting statements together. The Navajo Tribal Council in our Window Rock hearing, gave us pretty much all the different divisional heads and provided them to present testimony. All of them had fairly well documented statements.

In Sacramento, Calif., from terminated Indians to some of the Indians who have been forced out from colonies—because white people denied them access—had fairly good documentation facts, and narrowed their issues to, generally, the things we wished to learn about.

Commissioner DEER. I would like to encourage all the task force people, or task force chairmen to get solutions to problems. In one hearing that I attended there was a listing of the problems, and then when I asked what could be done to solve some of the problems, there were no solutions suggested.

Now, in your reported area of trust, have the witnesses come forward to suggest solutions as to how this problem could be resolved?

Mr. ADAMS. Yes. There have been suggested solutions. Some, for instance, wanting a new structure and having a direct tie with Congress. It has been indicated to say that the add-on process of budget-making for these days was the only chance that the tribe had to present their cases and issues to the Congress.

I would prefer that the Interior Department just make the case for their program requests, and so forth. There was a statement on the structure of the Executive Office to the President, or of some type of tieup where they would be able to judge OMB's handling of budget issues relating to trust responsibilities and the fulfillment of it going on.

So there have been suggested solutions and there are a lot of solutions that, I think, are quite obvious. A number of people recognize that there are a lot of really easy solutions that just aren't being used.

Chairman ABOUREZK. All right. I want to express my thanks, Hank, to you and your task force.

Task Force No. 10, Jojo Hunt.

Before you begin, in order to complete this meeting today, I don't think we are going to be able to take a lunch break. So I want to just advise everybody that if your task force is due up, if you believe the time is going to be about lunch time, you might want to go down and grab lunch a little later on; or wait until after you have completed your testimony here before you eat lunch.

I would like to ask the Commission, so that we can continue running through here, we can kind of breakup and half of us eat lunch, for whatever time it takes, and the other half go and then come back.

Is that permissible with everybody so that we don't run too late tonight? Does anybody have any problems with that? Do any of the task forces have any problems with that?

OK. So we will just kind of play it by ear and continue on.

Jojo, with respect to the Task Force on Terminated and Nonfederally Recognized Tribes, the first question I want to ask is: What have you established as the objective of your task force for filing your report?

STATEMENT OF MS. JOJO HUNT, CHAIRWOMAN, TASK FORCE NO. 10, ACCOMPANIED BY JOHN STEVENS

Ms. Hunt. We believe that the objectives of the Task Force on Terminated and Nonfederally Recognized Tribes are to define the rights of terminated and nonfederally recognized Indians.

We are also charged with an assessment of needs for those people who, in our minds, we really cannot do an adequate job on. We will, indeed, survey conditions rather than what one would consider a real assessment of need.

Chairman Abourezk. What does that mean, "survey conditions"?

Ms. Hunt. We have hearings and site visits scheduled in conjunction with a questionnaire.

Chairman Abourezk. Have you done the site visits yet?

Ms. Hunt. We have done a few site visits in conjunction with the NCAI conventions. We have through May, multiple days of hearings and site visits to get from the people what they believe their needs are and to find out from them what the conditions are that they live under.

Chairman Abourezk. All right. It is essential, since you are talking about, perhaps, finding out if their needs are Federal recognition, and for these tribes to be brought into the trust status, I assume that is one of the things you are going to be looking at.

If you are providing that as an alternative to the Commission, then there should also be a reasonably statistically based estimate of cost to the Federal Government of that action. I am sure we are going to need to know that.

Ms. Hunt. We are working on a projection of cost. We will try to be as accurate and as complete as possible.

Chairman Abourezk. OK. Then you will also identify, for the Commission, where these particular tribes are. The terminated and nonfederally recognized tribes and their population numbers. The whole demographics, right?

Ms. Hunt. Yes.

I might add to this answer that we have experienced great difficulty in locating terminated and nonfederally recognized groups.

Now, in the Senate report on the Bridgeport Colony, and the report filed by the Interior Committee on the Bridgeport Indian Colony bill, there was a list of groups which are not eligible for BIA services. Now, we have a list of groups, but we don't have contact people.

So, we are in the process of doing that. We have a fairly large mailing list now. But just this week, we have found three or four other tribes or communities that we have to get in touch with and we are this far along. It is really a difficult chore without having any kind of work done prior to this task force coming on board.

We did get the mailing list out. Through some of the organizations, like the Coalition of Eastern Native-American Natives, and also through the Governor's offices and State Indian Commission officers, we have been able to locate some tribes, bands, and groups, and contact people for them.

So that after we got that information, we got questionnaires out to each of them. We sent out approximately 135 community questionnaires. These were divided into three parts. The first part being simply the name and officers of that particular community, and also, other groups or communities, tribes, what have you, in their immediate area.

So, we tried to do that to get some other people out in the field; other people similarly situated. We have at least 60 part A returns now.

Chairman Abourezk. All right. Will you also be able to identify for the Commission in your report what are the problems—separate and distinct and apart from federally recognized tribes—which are created and caused by either termination or nonrecognition. Will that be part of your report?

Ms. Hunt. Yes.

Chairman Abourezk. What is the final date of submission of your report?

Ms. Hunt. August 17.

Chairman Abourezk. Will you have any problems at all in submitting your report by that date?

Ms. Hunt. I really believe in submitting the kind of adequate report we had hoped for, we will have trouble. We are working, and through our consultants—we have. Mr. John Stevens now on full time—and we are trying to catch up with about 30 percent. That is a high estimate to complete, with 50 percent of the time gone by. We will have a report for you but it won't be exactly what we hoped for.

Chairman Abourezk. What can the Commission do to assist you in getting out the kind of report that ought to be brought out on the date specified?

Ms. Hunt. Any suggestion you might have as to consultants. We have saved our money, our travel money and our consultant money, up until this time so that we would be able to use it very wisely.

Chairman Abourezk. Is it your problem that you don't have enough consultants to do the work? Is that what it is?

Ms. Hunt. No; the problem is the time factor. But we would like input from the Commissioners as well on the types of things that we should be looking at, as well as some of the consultants.

Commissioner Deer advised us, I believe, at the first Commission meeting that they were allowed to participate in that. Possibly Mr. Charles Wilkinson—we have talked with him and he is going to be very helpful to us.

So, any other suggestions, we would appreciate; and any comments on our materials that we have developed so far, would certainly be appreciated.

Chairman ABOUREZK. But that is a matter, of course, naturally, that if you are in doubt about some part of the work that you have done, I think you ought to bring it to the staff director and get comments from him. And if you want comments from any of us, ask us specifically.

But I think more specifically, what we need to know, is exactly what you need aside from comments. We can provide those anytime you ask us. You haven't asked me yet, for example. I don't know if you have asked anybody else on the Commission. Do you need more people? More money? Aside from more time, which we can't give you, what do you need?

Ms. HUNT. I believe we need more money for some of our hearings. I believe we have an adequate consultant's budget for the time period that we have left.

Chairman ABOUREZK. All right. Do you have a list of the hearings you need, and the amount of money that will cost?

Ms. HUNT. We have a cost estimate that was just based on travel. There is no way to determine except by averages of the transcript cost. This will be the time that nonfederally recognized people, specifically, will have a chance to express their view to the Federal Government.

So, we have decided that we really need formal hearings. I believe our budget will be exceeded by at least $2,700.

Chairman ABOUREZK. Will $2,700 additional do the job?

Ms. HUNT. I believe, as far as the hearings are concerned, yes.

Chairman ABOUREZK. All right. You say you have money for the consultants you need, but you don't have the consultants.

Ms. HUNT. We have been talking with consultants, and we will be sitting down this month—the 1st of March—to work up work plans and study designs with the consultants.

Chairman ABOUREZK. But do you need the Commission's help, in that regard, on consultants?

Ms. HUNT. We will be needing Kirke Kickingbird to help us outline the studies.

Chairman ABOUREZK. You know you will have that. Now, what I am asking: Do you need additional money to hire consultants? Are you asking for that?

Ms. HUNT. No; not at this time.

Chairman ABOUREZK. Are you going to be sure that you will hire the consultants you need in time enough to get the report done?

Ms. HUNT. Yes; I believe so.

Chairman ABOUREZK. You are going to take care of that?

Ms. HUNT. We are going to do as much as we can. I believe that we will have the necessary legal research done.

Chairman ABOUREZK. So, the only thing you are really lacking is roughly $2,700 for additional hearings in order to accomplish what you need to get done.

Ms. Hunt. Yes.

Chairman Abourezk. Will you then sit down with Ernie Stevens, the staff director, and determine if he can allot that from somewhere else where we have been able to save some money?

Ms. Hunt. I certainly will.

Chairman Abourezk. And if there are any problems, I will expect Ernie to get in touch with me

Ms. Hunt. OK.

Chairman Abourezk. Any other questions?

Commissioner Deer. Mr. Chairman?

Chairman Abourezk. Ada.

Commissioner Deer. I am concerned that the issues need to be identified. And then the ones studied and the ones that are not going to be studied should be identified. I think the Indian people have high expectations of this Commission, I feel that we should clearly specify what issues are going to be addressed and then fully address them. This not only applies to your group, but to all the task forces. Specify the issues which are not going to be identified.

We, the Commission, will be remiss in our obligation if we don't. Some knowledgeable people felt the time frame was too short—a 2-year time frame to complete the magnitude of the work that the Commission has outlined.

And so, I would like to emphasize this to all the task chairmen.

Ms. Hunt. Yes. We have been able to identify some of the issues, and we will continue to do so and work with finding an answer to those particular questions.

Congressman Yates. Among the issues that you will have to investigate: Will there be included in such report a definition of an Indian?

Ms. Hunt. We have tossed that question back and forth in the task force—and I think it has been used quite often against nonfederally recognized people, in particular—we are of the belief that tribes banded into groups of nonfederally recognized terminated and federally recognized people, should develop the definition of what an Indian is.

Congressman Yates. Will you be doing it as part of your task force work?

Ms. Hunt. We will be asking terminated and nonfederally recognized people; yes.

Congressman Yates. Will you be investigating the question of the criteria Congress should use in identifying Indians other than these, or recognizing Indians other than these?

Ms. Hunt. Yes.

Congressman Yates. You will be addressing that, too?

Ms. Hunt. Yes; and also restoration of terminated tribes.

Congressman Yates. Thank you. Thank you, Mr. Chairman.

Chairman Abourezk. Any other questions?

Commissioner Bruce. Yes; Mr. Chairman.

Jojo, have you been discussing the overall need for an organization—national organization, regional, or whatever basis—have you talked about that?

Ms. Hunt. Yes; we have. We have found that the current national organizations do not speak for nonfederally recognized people, and in some cases, terminated people. But sometimes speak in opposition to those groups.

We have talked with nonfederally recognized and terminated people in the West and in the East about such an organization—separate and apart from the effort of the task force—and it seems that everyone feels that there should, definitely, be some kind of national effort of terminated and nonfederally recognized people.

Allowing them to express to the Congress and to the administration what their beliefs are as to how a program should be operated; how a program should be established; what rights they have; and various other questions that affect Indian people throughout the country.

Chairman Abourezk. OK. If there are no more questions, then, we want to thank you and your task force very much.

Do you have any questions of us?

Ms. Hunt. I don't have any questions, but would like to give Mr. John Stevens the opportunity to address you at this time.

Mr. Stevens. I feel that the issues are very clear.

Chairman Abourezk. They aren't very clear, did you say?

Mr. Stevens. They are very clear. And the only thing that we, I think, requested from the full Commission would be an extension of time to do our job which you legally assigned to us to do.

As you well know, a lot of the tribes that we are dealing with have no documentation, whatsoever, and any kind of a trust relationship, or any kind of information that we can lay our hands on.

It makes our job doubly hard because we are dealing in all issues. Not only in trust relations, but in services and legal right. All of these we are trying to deal with in the nonrecognized tribes and terminated tribes.

There is some degree of documentation on a terminated tribe up to the time of termination, but after that, nobody can produce news for them or of them.

So, these are the problems we have to deal with. I hope that you Commissioners can see the job we have to undertake. We need more time and we need that extra time. If it is at all possible, we should be granted more time and more money to do our job.

I think the other task forces have good documentation. They can go to the BIA and get all the information they want on Indians. You can go to the courts and see legal cases on Federal crimes. But you cannot get this information for nonfederally recognized tribes.

So, I am urging the Commission to reconsider on the time element, and also money appropriations.

Chairman Abourezk. John, I can understand that your job is more difficult because of the lack of recordkeeping and so on. But we have a problem as well. I understand you have problems which we hope you can overcome. And we have problems of time in that we set out on a specific 2-year study. We have committed ourselves pretty much to the Congress which gave us the amount of money required, or we thought was required, for study.

We are all hesitant to go back to the full Congress to ask for—well, when you ask for time, you are asking for more money. We have hesitated to do that because so many Commissions have done that in the past. We were looked upon skeptically to begin with, really, as to whether we could get this done in time.

Because of that skepticism in the Congress, of whether we can get it done, we have committed ourselves to do that.

Mr. Stevens. Do they realize that they are asking us to document in 1 year, 200 years of injustice? They want us to document 200 years of history in 1 year. They don't realize the vast project they have embarked us on.

Chairman Abourezk. I understand that. I guess what we are asking of you is kind of a superhuman effort, and we are hoping you can deliver. In other words, you are all good people. You are, in fact, very talented people on this task force, and we are hoping that the kind of report that you come out with will be in spite of the lack of adequate documentation existing with BIA. That you will be able to come out with what you can identify as the real problems of these people.

It doesn't have to be documented down to the letter and crossed every "t" and dotted every "i." It has to be documented in terms of going to various regions of the country to find out what has happened. You certainly know that. You know what has happened to these people. The problems they have had with either being terminated or not having Federal recognition. That is easy to document from just life studies—from actual case studies.

It doesn't have to be done with every single Indian or every single tribe. It could be done on a general basis, in fact.

Mr. Stevens. If we are going to provide you with the location of these people in an estimate of cost, we have to do that. And if it were as simple as that, just taking a sample from one area to another, we would be accomplished in a month.

Chairman Abourezk. For the Northeastern tribes that have not ever been federally recognized—let's takes the State of Maine, for example: Doesn't the State government, itself, have some kind of documentation on those tribes?

Mr. Stevens. Yes; they do. But the agency ended in 1967. They have the Department of Indian Affairs.

Chairman Abourezk. Say that again?

Mr. Stevens. They have a Commission on Indian Affairs in the State of Maine.

Chairman Abourezk. Yes.

Mr. Stevens. That was created in 1967.

Chairman Abourezk. But isn't that sufficient to know where the Maine Indian tribes are and what kind of problems they are undergoing right now?

Mr. Stevens. That is only one, though. That is only one State. In every State, they have Indians; sometimes three or four different groups.

Chairman Abourezk. Are you saying that the other States don't have that kind of commission?

Mr. Stevens. Right. This is the problem.

Chairman Abourezk. I fully understand what your problems are, but the one thing we can't do is provide you with any more time.

Mr. Stevens. I don't think you really understand what my problem is.

Chairman Abourezk. Maybe I don't, then, but I think I do.

Mr. STEVENS. The problem is lack of documentation and the time element. It is so short. You are putting us in a terrible situation. I want to put it in the record that I will not be responsible because you want us to name tribes, and places, and population. This is what you asked us to do.

The problems, and I am telling you now, we can't do it in that short a period of time.

Chairman ABOUREZK. Well, how about more people?

Mr. STEVENS. Possibly, if you have enough money to hire 200 or 300 people.

Chairman AROUREZK. 200 or 300 people?

Mr. STEVENS. To help us out. Yes. We have to document all of the Indians. What is the relationship between that group, the State government or Federal Government. This is our responsibility. We have a double-barrel effect here. We are not merely dealing with the Federal Government. We are dealing with State governments too.

Chairman ABOUREZK. It might be that we may never get the job done at all, then, if it is going to take that many people.

Mr. STEVENS. I think what you are telling us is ridiculous, and what I am telling you is ridiculous too. But we need some more time. I think we have enough manageable staff now, but we need more time. We don't want to manage 200 or 300 people.

Chairman ABOUREZK. How much more time do you need?

Mr. STEVENS. I don't really know at this point. Do you, Jojo?

Ms. HUNT. I would say another year. It would take a year to adequately collect the data that we need from the field.

Chairman ABOUREZK. I think that, in itself, put it clear out of the question because by that time, the final report will have been printed and submitted to Congress.

Ms. HUNT. Any additional time would certainly help us, but you asked us how much we needed.

Chairman ABOUREZK. I guess one thing we can do is find out—I am reluctant to do this, myself—from Ernie what is the latest date the Commission can receive the report from you in order to get it in to the full Commission report. I guess that is what we are going to need to know.

Well, Ernie just said that is the date that was given to you.

Congressman YATES. What is the nature of the data that they have to gather?

Chairman ABOUREZK. Mostly demographic information as to where these tribes are located, and the numbers, and also——

Congressman YATES. What about the Census Bureau?

Chairman ABOUREZK. What about it?

Ms. HUNT. The Census Bureau has been deemed inadequate even on federally recognized tribes.

Chairman ABOUREZK. Do we ask on the census form if you are an Indian? If you are a nonrecognized Indian, and so on? That is not on the form is it? Have you looked at the forms? Have you asked the Census Bureau?

Ms. HUNT. We will be working with the Census Bureau, but a man that just recently started with the Census Bureau came over to our office and got our mailing list. So apparently, they don't know either. Just this week he got our mailing list.

Congressman YATES. I wonder if they have the personnel or that they have the responsibility to gather this information? Does the Census Bureau have the responsibility to gather this information?

Mr. STEVENS. No.

Congressman YATES. Well, they haven't been fulfilling it, obviously, but do they have the responsibility of doing it?

Mr. STEVENS. I don't know. We haven't looked into it.

Congressman YATES. You are saying they do not have responsibility?

Mr. STEVENS. I am saying we are not really clear as to what responsibility they have, but we will certainly look into it.

Congressman YATES. I think, Mr. Chairman, we have to find out what that responsibility is in order to enlist the facilities of the Census Bureau in speeding up the accumulation of the data.

Ms. HUNT. I know there is an effort, now, to try to locate non-federally recognized populations because they came and got our mailing list, for one thing. Plus, I have heard representatives of the Census Bureau——

Congressman YATES. Maybe we can do more than that. Maybe we can require them to do something that they should have done before, and do it more quickly.

Chairman ABOUREZK. Yes. Well, I am just advised by the Commission counsel that the dates, in fact, are set up in the legislation. You would have to amend the legislation which established this Commission to give you more time anyhow. And it doesn't seem feasible that that can be done.

Congressman YATES. Can the Commission counsel advise us of the responsibilities of the Census Bureau in this respect?

Mr. KICKINGBIRD. No; I am afraid not. The general forms only allow you to indicate whether or not you are an Indian. And that is about the only information the census takes.

Chairman ABOUREZK. They allow or require?

Mr. KICKINGBIRD. Allow you to indicate.

Congressman YATES. Is there a requirement on the part of the Census Bureau to do something that they are not doing? Do they have the statutory responsibility of finding out all of the people in this country, including the Indian? And, therefore, we might be able to require them to gather this information for us.

Mr. KICKINGBIRD. We can check it out. I am doubtful we will be able to use it—as Jojo indicated earlier. I mean, just because of past practices and the amount of time it would take them to assemble those materials. In the first 4 opening weeks of the Commission's life, Ernie and I met with some people of the Office of Management and Budget. It seemed to me that by the time they could gear up and assemble data of this sort, it would require $5 million and they could not begin the study until 1978.

Chairman ABOUREZK. I am just advised that the Census Bureau is out at Suitland, and they have representatives there who indicated a need to get together with the Commission to design a questionnaire for clarifying some Indian facts—who are Indians and where they are around the country.

Obviously, that won't take place until the next census comes about. So, we are stuck right there. So, we are going to understand that you are not going to have that information completely when you come to the end of the report.

But, I guess, to understand you have done the best job you can once you do file your report with the money and time you have available.

So, I want to thank you very much, and I appreciate it. We understand that problem.

Ms. HUNT. Mr. Chairman, I would like to invite each of you to attend any of the hearings that we have scheduled between now and the end of May. You will be receiving a personal invitation. The hearing schedule has been changed from what is included in the quarterly report, so you will get another schedule, and also, the time and sites of the hearings in early March. We would appreciate your accompanying us on any of these trips to get you into the field to learn firsthand from the people, some of the problems that they are facing.

Commissioner DIAL. I was only going to make one remark. And that is, since time presents a problem, I think it is even more important that if we have to have more money to complete this project, that we have it. If it means going back to the Congress to get additional funds, this is a very important project and I am not a Congressman. But I believe we need to do it because just this week, I was listening to one report that began with $750 million is going to wind up somewhere else. And this is rushing the time. I am saying that if we used to extend the time, certainly we don't want dollars to come up and, you know, give us a sloppy job.

So, I would hope that all 11 task forces have adequate funds and they will spend this money wisely and give us a real good report.

I guess we will have a year of everybody killing themselves from work.

Commissioner BRUCE. One quick question.

Why were Hawaiian natives included in your study, and how much time are you spending on them?

Ms. HUNT. I will answer the first question second, if that is OK.

But as to the amount of time spent here in the first quarter, we spent virtually no time. The second quarter—we had redesigned our questionnaire that we sent to 65 selected Hawaiian organizations and communities. We have a mailing list of about 150.

One of our task force members went to some hearings. He went out February 7, I believe, and he was out there for, virtually, an entire week.

Chairman ABOUREZK. Out where?

Ms. HUNT. Out in Hawaii. With the hearing on Senate Resolution 155 to establish a study commission on Hawaiian native land claims. I have not gotten a written report yet from my task force member.

As to why he decided to include Hawaiian natives: We believe that Hawaiian natives are, indeed, native American. They are not classified as Indians, but they are just as native as we are, I believe.

They have also been included in legislation in establishing the Office of Native American Programs. You might note that the Subcommittee on Indian Affairs in the House, certainly—I don't know if it is in this subcommittee of the Senate—bills relating to Hawaiian native land claim settlements.

Taken altogether, we believe we would be remiss in our duties to look at all nonfederally recognized people in the country—native people in the country—without looking at Hawaiian natives.

Chairman Abourezk. One thing I would like to comment on: That strikes me that the inclusion of Hawaiian natives in this study seems to me to be a major departure from what we thought our original mission was. It would seem to me that your task force might have come to the Commission with that proposal. That is the first I have heard of that.

Ms. Hunt. No; in the September 12 meeting I indicated that we would be looking at Hawaiian natives. It is also in the scope of work and it is in some of the quarterly reports—some of the things we have been doing with Hawaiian natives.

Chairman Abourezk. I guess I don't remember that at all, Jojo. That is the first news I have heard——

Ms. Hunt. And at that time, I asked for comments from the Commission about the things that we proposed to do.

Commissioner Bruce. How is that going to affect your definition?

Ms. Hunt. We will, indeed, still classify them as Hawaiian natives. We won't be able to spend a lot of time on them, but we will be able, hopefully, to collect some data on them and to look into the circumstances of how their queen was overthrown and their government taken over.

Commissioner Bruce. Sixty-five organizations?

Ms. Hunt. Selected organizations out of about 150.

Chairman Abourezk. OK. Well, thank you very much, then.

The next is Task Force No. 4—Federal, State, and Tribal Jurisdiction.

Sherwin Broadhead.

Sherwin, would you introduce the gentleman you have with you?

STATEMENT OF W. SHERWIN BROADHEAD, CHAIRMAN, TASK FORCE NO. 4; ACCOMPANIED BY PAUL ALEXANDER

Mr. Broadhead. Yes; I have Paul Alexander, general counsel for the task force.

Chairman Abourezk. The first question I would like to ask you is: What is the date of your final report?

Mr. Broadhead. July 23.

Chairman Abourezk. Do you see any problems with furnishing the Commission with your report by that date?

Mr. Broadhead. I think we will have a struggle, but we will succeed.

Chairman Abourezk. Second: What have you determined is the objective of your task force?

Mr. Broadhead. I think our primary objective is to clarify the various jurisdictions wherever possible with recommendations.

Chairman Abourezk. Define that a little more in detail. What do you mean, the various jurisdictions?

Mr. Broadhead. At the present time, there are many, many lawsuits between Indian tribes and States and between Indian tribes and the Federal Government quarreling over uncleared determinations where legislation has been passed and let the jurisdiction fade. And, I think an important aspect of our investigation is to try to find ways to clear that up so that the meager sums that the tribes have are not wasted on just these continuing lawsuits.

Chairman Abourezk. So, your report will contain legislative recommendations for each area of the country that needs that legislative clarification. Is that right?

Mr. BROADHEAD. Yes.

Chairman ABOUREZK. Are there any other parts of your report that you want to talk about so far as objectives are concerned? For example: Are you going to take up the need for Indian tribes to have a land base to maintain jurisdiction over that land base?

Mr. BROADHEAD. Yes.

Chairman ABOUREZK. And you will provide the legal and factual basis for that?

Mr. BROADHEAD. Yes. We are presently involved in a vigorous set of hearings. Those questions are coming up, and we are attempting to get as much data and as much feeling of how to do, and so on, on those kind of questions.

Chairman ABOUREZK. OK. Any other questions?

Congressman YATES. Isn't your fundamental mission to try and find some way of appealing to the committees?

Mr. BROADHEAD. That is certainly within the scope of our activities. Yes. We want to find a way to iron out those kind of problems that were created.

Congressman YATES. Will you be listing or documenting the number of disputes?

Mr. BROADHEAD. Yes; we have, already, on the hearing record just hundreds of such instances.

Congressman YATES. Have any of those cases gone to court?

Mr. BROADHEAD. Many.

Congressman YATES. Have any of them gone up to the Supreme Court?

Mr. BROADHEAD. Yes; several have. And, some of the primary issues have not reached the Supreme Court. The courts have tended to send their cases back for further proceeding, and there has been some kind of settlement toward that, but none of them have satisfactorily——

Mr. ALEXANDER. Part of the problem in trying to build a caseload to jurisdiction is that the factual situations are often very bad ones. You get a situation where you are trying to determine who can exercise zoning control, or various types of land use controls, over the Indians.

And a case, one in point, where a particular Indian tribe has not exercised jurisdiction. The issue, as applied was next to a national forest, where the country and the State is trying to impose. The case comes up in a very bad factual manner.

One of the things that is important for us in relation to redefining jurisdiction, aside from defining the treaties and the case laws, is to define it to the various tribes given varying unique land base population or resource basis to define how they would like to see how it would operate: to get that fairly well clear cut and see what appropriate statute can be worked out from that basis.

Congressman YATES. Is there a question of constitutionality in that act?

Mr. BROADHEAD. I think there is.

Mr. ALEXANDER. Beyond just Public Law 83–280, itself, there are serious issues on how to go about determining issues that depend, oftentimes, on the individual tribes. And there has been a wide range of testimony in our hearings as to the views of the individual tribes, and what kind of systems they would like to see created.

Congressman Yates. Thank you.

Mr. Broadhead. Our investigation to this point would lead us to believe that it has to be a kind of permissive kind of legislation that allows the tribe to come in at the rate they wish to. To this point, and at the moment.

Chairman Abourezk. One other question that I have. Are you taking up the issue of the effect of the Civil Rights Act upon jurisdiction? Is that one of the questions you are considering?

Mr. Broadhead. Very definitely; yes.

Chairman Abourezk. Now, just one other general thing that applies to all task forces, and not yours, specifically.

I don't know if you have considered the amount of time it is going to take to develop a readable manuscript for your report. Not only you, but I mean everybody. I hope that all task forces will take the time to consider that.

I know some of your quarterly reports come in late. It is the same with anybody who tries to write something. If it doesn't come out right, then you have to keep rewriting. So, I hope you will allow yourselves enough time to make certain that a readable, well-written manuscript is provided to us. We are not going to have all that much time to correct your writing, and we want to make sure we understand what you are saying.

So, we hope that you fully consider that.

Mr. Broadhead. Our task force is constantly reminded of that by Mr. Alexander who has worked for the Civil Rights Commission, and has had this kind of deadline before.

Chairman Abourezk. One other request I would like to make, personally, and I think I can probably speak for all the members of the Commission.

The less Government jargon you put in those reports, the better off we are. It should be a very clear document. I noticed, in the past few years, that the Indian people—because they have been forced in the position of being Government grantsmen—that they tend to let their language fall into that pattern.

I would hope that you would all come out of that by the time you have written your reports because—in other words—they ought to be very clear and straightforward, and not written in the Government style of jargon.

If there are no more questions—Jake?

Commissioner Whitecrow. Mr. Broadhead, I notice in your report you mentioned problems with the speed with which the communications staff has responded to your needs; and expressed the hope that the problems had been solved.

Have those problems been solved to your satisfaction?

Mr. Broadhead. I will ask Mr. Alexander to respond to that. He is on day-to-day contact in that field.

Mr. Alexander. We set up a number of master forms to be used in conjunction with hearings. This involves a range of letters to congressional delegations, Senators, Attorney General, tribes, newspaper medias, and so on. And the first time out with those there was a serious delay in getting that work produced and mailed, which was rectified the second time out. Hopefully, it will continue to operate smoothly. The problem was identified and it has been solved. I am fairly confident that the communications staff will carry it out appropriately.

Commissioner BORBRIDGE. With respect to the scope of the work that you envision with respect to tribal jurisdiction, when you consider specific tribal jurisdictions, you occasionally encounter gray areas—you know that there definitely is tribal jurisdiction, or there is a question or the issue or circumstance may fall "in between." Are you addressing that question?

Mr. BROADHEAD. Yes.

Commissioner BORBRIDGE. I realize it is a little bit of a gray area, and I would much rather you address yourself to it than let it fall between the cracks.

Mr. BROADHEAD. Yes. The jurisdiction is so broad that it hits us in many areas. And if we are going to err, we're going to err in overlap rather than in gap. And that issue has been raised in a few instances, and we will deal with it.

Commissioner BORBRIDGE. Very good.

Commissioner DEER. Our tribe is now going through this whole process of change of jurisdiction. This is being accomplished through a retrocession procedure. So, I am wondering if your task force is going to be doing an analysis of those tribes that have gone through the retrocession procedure?

Mr. BROADHEAD. Yes. Retrocession in the States?

Commissioner DEER. Yes.

Mr. BROADHEAD. Yes. We have met with some of those tribes and, particularly, in the State of Nevada where there is retrocession jurisdiction. In your case, in restoration, we intend to get into that very much when we have the final hearings there in mid-March.

Commissioner DEER. There are many problems that come up. In this change of jurisdiction, one of the problems is, for example: What is the cost going to be and who is going to assume the cost?

Is your task force doing any cost projections?

Mr. ALEXANDER. The thing we are trying to do so far is to determine what planning BIA has done in terms of projections. And this is a problem for us that we should raise.

In our southern California hearings and our northwest hearings, we invited all of the area superintendents, plus the area director. The Riverside superintendent attended and provided such information and testified very honestly, probably, to his detriment in the bureaucracy. But he testified honestly.

That was his viewpoint. None of the others attended and testified. We are also asking the tribes to project, in terms of the types of personal resources, time resources, and monetary resources what they will need. And from that, we are going to try to develop a scheme.

It is going to vary considerably depending upon the individual tribe and the individual State. So, there are the two data gathering mechanisms we are going to use. And it is going to be growth kinds of protection, because from what we have seen, nobody really knows.

In many of the States, in California for example the debate for so long has been whether or not to go retrocession or not to go retrocession. And it has only been very recently that anybody is focusing on what does retrocession mean in practical monetary terms. A lot of people haven't gotten there.

Commissioner DEER. Another one of the problems I think the Indian people need to address is the training of law enforcement people. I think that we don't have realistic understanding of the training problems.

And also, there is the whole question of the quality of training programs, and so on. I think this certainly has to be addressed by the task force.

Are you doing this?

Mr. BROADHEAD. Yes. We have a task force member and this is one of his main interests. I am sure it will be addressed in our task force.

Congressman YATES. Mr. Chairman? I would like to commend this group for a very interesting report.

Chairman ABOUREZK. I agree. And if there are no more questions, I want to thank you very much.

The next is Task Force No. 5—Indian Education. Helen Scheirbeck.

Helen, do you have somebody with you? Would you like to introduce them?

STATEMENT OF HELEN SCHEIRBECK, CHAIRWOMAN, TASK FORCE NO. 5; ACCOMPANIED BY KATHLEEN McGEE

Ms. SCHEIRBECK. I have on my left, Kathleen McKee, our task force specialist. And behind Kathleen, one of our research assistants.

Chairman ABOUREZK. The first question I have, Helen, is: Will you give me the date your final report is due to us?

Ms. SCHEIRBECK. August 17.

Chairman ABOUREZK. Do you anticipate any problems in having that report to us by that date?

Ms. SCHEIRBECK. We anticipate having the report in on schedule, Mr. Chairman. I do have, however, reflected in my opening statement some decisions you need to make so that I can meet that deadline.

Chairman ABOUREZK. All right. We want to hear from that.

Before you get into that, let me ask you first of all: What have you determined to be the objective of your task force?

Ms. SCHEIRBECK. I would like to talk about three or four goals of our task force, and from those goals, Mr. Chairman, we have defined a number of objectives.

We see as our first goal: Defining Indian education by and with the Indian people. We have spread out in our objectives how that would be done.

We see as our second goal: Describing the present status of Indian education from an administrative, organizational, physical, and historical perspective.

Then we see for our next goal: Developing a series of position papers which will describe, in depth, those recurring problems that we have all heard, and propose those position papers, not only recommendations, but suggestions for strategy and actual pieces of legislation that the Commission may wish to take to the Congress.

So, we see those three or four items, and they are the goals we are pursuing with the study.

Chairman Abourezk. Is there included in the issue of education the attitudes of whites concerning Indians?

Ms. Scheirbeck. What we are looking at are the laws in our historical research. Certainly, some of those speak to that issue, when we are looking at the contemporary issues. Let me define what I mean.

We have decided to look at all of the things that agencies have done since 1970, because that was the last big congressional report on Indian education. We want to see how all of those recommendations—from both of the Kennedy studies; the recent studies of the last 2 years authorized by the Congress; the 638 study, which was just filed in October; the ACKCO study which the U.S. Office of Education had filed—the issue of white education was touched on in all of those studies. Both the recommendations and the analysis of the studies.

And so, what we are doing, we are looking intensively at that contemporary data to see if anything has happened. And we are also reviewing that survey in the States; their viewpoints about the role of the education of Indian students and white students.

I guess I want to add one more component. In our analysis of both the compensatory program and the basic funding program, we will have to speak to that issue. The issue of whites being educated with the Indians and since two-thirds of our Indian students are in the public schools, we certainly have to study this.

Chairman Abourezk. I specifically am thinking of curricula in white schools and in teacher's colleges in the States which have a substantial Indian population. I am concerned, from my own experience, about white attitudes toward Indians which seriously and deeply affect the quality of life of the Indian people. There is discrimination, stereotyping, and so on.

Will your final report include the legislative recommendations that the Congress might undertake that would either encourage—or I don't know if you can use the word "require"—but at least encourage a State curricula to include Indian study programs to enable white students and teachers to better understand what Indians are all about.

Ms. Scheirbeck. I can usually answer you "yes" or "no" to questions quickly. But I would like to expand on this a moment because you did call it to our attention at the first meeting, and I did do some work there.

We have surveyed the board of regents or the State commissions of higher education in various States, asking two types of questions. One of those is: What schools of education have programs or trends that the teachers and administrators of children are being required to follow or asked to do something about sensitivity issues, and curriculum related to Indian children?

There are a number of States which are requiring that teachers take human relation courses. Some of these are Indian-related kinds of courses. We have also asked the State department of education the question because of the textbook commission.

I felt, personally, that we could influence those textbook commissions, on your point, that is the way to go. But it seems to me that we also had to look at the constitutional question here, which is the role of the States in educating children.

So, it is not an easy question to say yes or no to. And I am sure we will be making some recommendations to you about that point that will have to come from the various areas.

Chairman ABOUREZK. OK. Would you want to raise the issues that you had wanted to? Then we will go into further questions.

Ms. SCHEIRBECK. The task force originally proposed to divide its work into two components: The research activity to be completed during the first and second report quarters; and field study to be completed during the third and fourth reporting quarters.

Some of the research material, relating to the historical effort, has been connected through the chairperson's work the previous year on the Whitney Foundation project. This has been brought to this effort. Due to the collection from Federal agencies, particularly obtaining contemporary evaluations and reports, did not seem an unreasonable task at that time to be completed at the end of the second quarter.

However, because of the problems of locating and accessibility of agency data, this task will not be completed until the third quarter. In view of the limited participation of other task force members, as chairperson, I decided in February to substantially revise the scope of work and plan of operation for Task Force No. 5.

In this revision, while each component related to our original objective is significant, we are beginning to realize that some tasks designated as primary have to become secondary.

These reasons are outlined in the quarterly report. The quarterly report also reflects to date the performance based on our revised method for meeting the original objective. Our original design for field activities has been changed. We have become increasingly aware of the incredible lack of data on certain Indian groups, particularly the east coast Indian and the urban Indian, and the overabundance of a single kind of data on reservation Indians.

Given the difference in available data on the growth of Indian groups, our strategy and methodology to gather useful data must be different. Thus, our field of activity will involve Indian research on the definition of Indian education as perceived by reservation Indians.

Since there has been no comprehensive needs or assessment for urban and east coast Indians, and since this type of research is time consuming and expensive, therefore, not within the practical constraints of this task force, we have chosen to conduct selected field visits which will attempt to explore the existing problems and needs of these groups.

Much of the above activity performed by the task force will serve to support a series of position papers to be developed around certain recurring and pressing issues facing Indian education.

In addition, they will propose a rational strategy for change.

Our most pressing need, at this time, is for a vacancy on our task force to be filled. As chairperson of the task force, I would like to request the immediate appointment of Ms. Lorraine Misiaszek, a member of the Colville Tribe and director of the Indian Education Advocates of the Northeast, Inc., into this position. It is my understanding that she was on the original list of nominees, is presently available, and has expressed an active interest in working with the task force. Her résumé has been passed out to you.

I have known Ms. Misiaszek for a number of years, and I respect her competence and commitment in the field of Indian education.

Chairman ABOUREZK. Helen, may I stop you a minute? Would you give me that name again?

Ms. SCHEIRBECK. Misiaszek, and I believe her résumé has been passed out to you. I had Mr. Fassett do that just now.

Chairman ABOUREZK. I think we can take that question up right now. Lorraine Misiaszek, M-I-S-I-A-S-Z-E-K. Mrs. Anthony J., of Spokane, Wash. Enrolled as a member of the Colville Confederated Tribes. Served as an elected tribal council member for 4 years.

Has everybody got a copy of this résumé?

Does somebody want to place her name in nomination to fill that vacancy?

Commissioner BRUCE. Mr. Chairman, I would like to nominate her.

Chairman ABOUREZK. The nomination has been heard. Is there a second?

Congressman YATES. I second it.

Chairman ABOUREZK. Are there any other nominations for this position? If not, the nominations will close and I will ask for a vote on Lorraine Misiaszek as a member of the education task force.

All in favor will say, "Aye".

[Chorus of ayes.]

Chairman ABOUREZK. Those opposed, "No".

The ayes have it. You have got your replacement.

Ms. SCHEIRBECK. Thank you very much, Mr. Chairman. We will be able to move ahead on time now.

I would like now to have some comments from you about the scope of work and other items that we have layed before you, and I would like to know if that is responsive to the interests of the Commission members.

Chairman ABOUREZK. Any questions?

Congressman YATES. Mr. Chairman, I have been reading the task force report and I am particularly intrigued by item No. 7, where you list the apparent mismanagement of funds of Indian education by Federal, State, and local governments.

Can you tell me more about that now?

Ms. SCHEIRBECK. That is an issue which Indian people have brought to our attention.

Congressman YATES. Have you studied it at all yet?

Ms. SCHEIRBECK. Yes, sir; we have been looking at that question. First, from the data we have gathered from agencies. Second, we have gathered analyses of all the appropriations since the beginning of the appropriation concept. And, third, we are analyzing several area offices and we are analyzing all of the contemporary data at the U.S. Office of Education.

I might say, Mr. Yates, that we talked with the appropriations staff on the House side. We asked them what pressing questions they felt they had to face each year in preparing appropriations recommendations for committee members. One of the things that disturbed them is that they cannot tell whether the money was going in Indian education.

So, Ms. McKee is spending practically full time getting that data out. We hope to overlay: Showing where the money has gone; what the law says the money should be used for and how the agency rules and regulations have interpreted that law; and then, where the grants have gone.

The important question is: What has the agency decided is the criteria for who the Indian is that got that grant; or who the group is that says it got the Indian education money?

Congressman YATES. How far along is she?

Ms. SCHEIRBECK. Would you like to comment on that, Ms. McKee?

Ms. McKEE. Well, a lot of the information I brought to this effort I brought because I had worked with the title IV program and had access to that information. I would say, on a scale of 0 to 10, I would rate cooperation at zero, because most people do not feel compelled to keep appointments with me or to give me information.

I find that——

Congressman YATES. When you say, OE education——

Ms. McKEE. This is the agency as a whole. The agency has contended that there are 44 programs presently funding Indian education efforts. I have developed a format for interviewing the heads of each of those programs and identify how their funds flow. How they define what is an Indian group; whether or not these are actual figures; or whether or not they are calculations of moneys attracted to a school district by the presence of Indians for which they cannot account once they reach the school district.

The types of projects funded; the types of geographical distribution that come out of these funding patterns to determine whether or not the agencies can concentrate funds within visible tribes, and very often, ignore the smaller tribes who also have critical educational needs.

In terms of all the information to be collected, it would be optimistic to say I am approximately a quarter of the way through. One of the things I found, which I found to be essential, is the personal interview. I know what I want to look for, and I know how a question can be avoided by a simple paper response, and that is time consuming.

Congressman YATES. Why don't you ask for the help of the congressional Members of the Commission to make an appointment for you at the Office of Education. I think they would certainly be glad to cooperate with you.

Are you here in Washington?

Ms. McKEE. Yes; I am.

Congressman YATES. My office would be very glad to cooperate with you in getting this information for you. If you run into any obstacles, I wish you would let me know. I would hope that that scale would go up from zero to a higher number.

Commissioner BRUCE. At this point, I would like to ask our Director, Ernie Stevens, to tell us what problems or complications he is having or the Commission is having, in securing information from the various Government agencies.

Mr. STEVENS. We have been having some problems which we have been able to solve without getting too involved in any kind of a hassle. Curiously enough, one of the departments that is most uncooperative is HEW as a whole. As a matter of fact, we were forced to have Senator Abourezk call their legislative liaison over and try to convince him that he ought to cooperate with us.

An acting solicitor wrote kind of an impertinent reply for our request for information. Another thing that has happened is that Gil Hall—Gil is standing back there—the preliminary that we are requiring from agencies, and HEW is the last to come in with it.

Congressman YATES. Is this the Office of Indian Education?

Mr. STEVENS. That is the entire Department, sir. It includes the Office of Native American Programs, and Office of Education. They have some type of task force over there. I don't know. Gil Hall could answer that specifically.

What are the specific problems, Gil? I just wanted to indicate that this is the rule rather than the exception of that particular agency, for some reason.

Mr. HALL. Without question, HEW has been the most difficult. Now, I haven't been involved, personally, with regard to the Education Office; but it is consistent with the dealings generally that we have had all the way along the line.

Most of the agencies, including HEW, were—in some cases—slow, but nevertheless, finally did respond to some of our initial inquiries with respect to, basically, introductory materials with regard to the regulations and funding levels, and what have you.

We are now getting to a point, which I consider is much more crucial with the agencies because we have got our basic data base upon which we can make some preliminary judgments and go back to them with the issues that may hurt a little bit more.

I think we are correspondingly going to run into—with respect to HEW, particularly—a good deal more reluctance to respond quickly.

Congressman YATES. But, HEW is such a big agency. Can't you be more specific in telling us where you have encountered these difficulties?

Mr. HALL. Well, Office of Education. More specifically, the General Counsel's Office, and the Secretary's Office, himself, have been making responses to us—on the phone, at least—that are an indication of a desire to cooperate. But it seldom produces what we are looking for, so far, at least.

Congressman YATES. Have you run into any difficulty with Dr. Demmert's office?

Mr. HALL. I, personally, have not. I don't know whether Helen has.

Ms. MCKEE. I would say that Dr. Demmert's office is probably the only one that has been able to make a commitment in terms of staff time and actual information. I could give you an illustration of what we have personally encountered in OE. In mid-November we requested an appointment with the Commissioner's Office so that he could know what programs we wanted to talk to, and that we were at present in the Agency.

The appointments were canceled on at least two occasions and we finally got an appointment on December 9.

Congressman YATES. After what passage of time?

Ms. MCKEE. After the passage of about 10 to 15 working days. The thing I find that is concerning us is that we were never notified that the appointments were canceled until we appeared, although they had a number at which we could be reached, and we could have been saved at least the time of having to go over for a nonshow.

We met with an Associate Commissioner of Education on December 9, and it was agreed that, yes, there were many OE programs serving

Indians. That they would get a letter out to each of the deputyships and Bureau heads and directors of programs telling them what kind of information we were seeking, and asking them to pull it together.

We had requested to have all of this information, in our discussion, no later than January 28. We were required to personally draft the letter of request for information so that they would understand the points that we wanted covered.

The draft was handed over to them on December 31. The draft was not typed up, or was typed up in modified form leaving out many of the things that we had specifically requested. And it was not disseminated within the agency until January 26.

I made regular visits to the Agency. I was told that there was an epidemic of ill health at the Commissioner level, but that it would be checked into. I have made frequent calls. I am regarded as a presence, at the Commissioner's level now, the Office of Education. After 5 days, I was able to get a list of people with telephone extensions and room numbers which I could go to and tell them what it was I wanted.

That was as of Friday of last week.

Ms. SCHEIRBECK. I might add, Congressman Yates, that we are both well-known personalities of that Agency, having worked there, and we can get this information unofficially. But for the record, we are trying to do it officially, you see.

Congressman YATES. Can you get it unofficially? Apparently, Ms. McKee is having trouble.

Ms. McKEE. Some things, people will bootleg for us. Other things that we need to look at, we have to go through the Department people, themselves.

Congressman YATES. Why do you think they struck out some of the information that you requested from the letter you drafted?

Ms. McKEE. I really have no idea.

Congressman YATES. Would it be embarrassing to them to give you that information.

Ms. McKEE. I think it would require substantial staff effort for them to give us the information. I think it would require the assignment of a staff member. I think in many OE programs serving Indians, there is frequently a rapid turnover of staff, and the newest person on staff is the one who gets the assignment; and, very rarely knows where the information is.

Yet, they collect a list of requests until they get it down to the questions they know they can answer.

Congressman YATES. Are you in a position to give me a list of the OE programs serving you?

Ms. McKEE. Yes; I am.

Congressman YATES. I would like to have that.

Ms. SCHEIRBECK. I would like to have something to say about BIA on this same point, if I might.

We went to BIA about this same time in November; well, actually, in September. I might add that the education chair had been changing, and so it has been difficult to stabilize that.

We went to the Deputy Commissioner and we have gone to the three different people in the education chair. So, I finally, personally—and I had to be in Albuquerque on another meeting—went to the Albuquerque office and gathered the majority of material myself. And it has been arriving by mail.

So, I think we should say that the field staff in BIA, particularly the Off-Reservation Board, for example, who we have surveyed, we are getting good responses from those people. We have not had good response from the central office.

Congressman YATES. Are you in a position to tell us whether or not you believe there has been an apparent mismanagement of funds for Indian education by Federal, State, or local levels, or is it too early?

Ms. SCHEIRBECK. I think it is too early for us to answer that question.

Commissioner BRUCE. Mr. Chairman and the other Commissioners, I just wondered—knowing that we do have some powers as a Commission, subpena powers, or whatever—how long we have to continue to tolerate the kind of uncooperation that we are getting from the Agency?

What do we do? Ride along and hope that somebody will respond?

I think the Commissioners, themselves, ought to take some action. Somewhere the boom should be lowered, and I mean it. I don't want to be laughed at, as I have been when I make a statement of this kind. We have that power, we need this information, we must have it; and the Commissioners had better take a position. Ernie, I think we should lower the boom somewhere.

Mr. STEVENS. They are arranging for Congressman Yates to chair the meeting. I thought that this afternoon, if the Commissioners would bring this up again when we are back, I think this is very important.

We had a situation, recently—Gil, you speak for yourself and I will speak for myself—I have gotten to the point now where the very cooperative office of the Interior Department no longer answers our telephone calls.

I think one of the problems is that—I was telling Jim about it last night—I think we have to make an example of somebody. What is happening is that they know that these task forces have until next summer. All they are doing right now is pulling the rope a little bit on us, and just laying on us. So, I think we have to step up the action. But I think that the Commission is going to have to handle this issue. Congressman Meeds will be here and Senator Abourezk can bring it up again.

Now, we put two letters on Bill Veeder for a fairly routine assignment, and what has happened is that Senator Abourezk sent a letter over to him the first time, asking Bill Veeder to do a report. We were forced to go to a second letter. In the meantime, we found out that Bill Veeder's supervisor asked him if he would like to be assigned to the Commission, and, of course, he declined.

Then we sent a letter to the Commissioner telling him that we did not need Bill's services full time, and we wanted him to explore the legal possibilities of a separate Agency. And he could do that at his pleasure and on his own time. And, we would like it submitted as a special study to the Commission.

After that, I called the Commissioner's assistant two or three times. Gil Hall has called him three times in the last few days. Yesterday, Jim told me to tell them: You know, we wanted an answer today. And we have not received a call from them.

That sort of thing is starting to happen. My own opinion of it is that they know these task forces have to finish next summer, and they don't think we can do anything about it.

Mr. HALL. I would just add to Commissioner Bruce on that. All of the task forces are getting to the point where they are going to the agencies more and go in with more difficult questions. I feel very strongly that we are going to start getting a little bit more reluctance on their part to respond quickly to us for the reasons that Ernie mentioned.

They know that by the end of the summer the task forces will be gone, and if they can stall us off that long, there won't be any problem.

Congressman YATES. I think the congressional Members are in a position to try to be helpful if they are advised of it.

Commissioner BORBRIDGE. I note, Ernie, that through several of our reports, that you have indicated in one of your letters to one of the agencies that you have sought to prod them with some mixed success and lack of success.

Would you be in a position to pull this very quickly together in terms of giving us an assessment of the relative cooperativeness of each of the agencies? I think that should be a matter centralized into one document, if you will, indicating the status of the response.

I request that, not only because I think it is the business of the Commission, I frankly think it is the business of the entire Indian community—as to how much responsiveness we are obtaining as a Commission. Those responses from agencies with which we seek to do business is a direct concern of the Indian community.

Mr. STEVENS. I will have Kirke and Gil put a report together right away. We can put that together rather readily, because Gil handles all the requests of the agencies, and we know how many times we have to ask them; how many letters go out; and so on.

So, we will do a status report and give it to the Commission immediately.

Commissioner BRUCE. Helen, in your report on page 2, in view of the limited participation of other task force members: Can you tell us more about that? What kind of participation are you getting from the rest of your task force?

Ms. SCHEIRBECK. I think we had a task force of two until a few minutes ago, Commissioner Bruce, and now we have three. I think I can speak from the last quarter. In the month of November, we decided, because of the Indian national meetings going on, we would not have a task force meeting. Because we tried to divide ourselves up and cover these. I covered one. The other two gentlemen covered others.

In the month of December, we had called for two task force meetings, because the first one had to be canceled because of an airline strike. And, we could not get our task force members in and out. The second one had to be canceled because of the ill health of the task force members.

In January, we called for one task force meeting early, and somehow, there was a communication problem there. Although we talked by telephone, we have been told all task force members could be present, I was there and no one else came to that meeting.

In late December, we called for another task force meeting, but because of a previous commitment of a task force member, that one did not come off.

In February, we had called for an early task force meeting and because of schedules, that did not come off. We have a task force meeting, hopefully, Monday morning. So, I think distance, schedules, and the fact that the other task force member has a full-time job as a school superintendent and travels a great deal, has made it very tough for us to have more meetings.

We have had a lot of mail communications, and telephone communications between task force specialists, the chairman, and the task force members. I thought that at our second task force meeting, I did have an understanding of everyone's calendar schedule. In other words, I asked that these be identified, and I did attempt to schedule task force meetings which did not show conflict with those schedules that were identified.

I would say probably time, distance, and the difficulty of getting together with our members by telephone, we have gotten very limited participation. I am a great believer in the democratic process, and I feel quite badly that I have really pushed to have them in the areas, because I have been trying to keep us on schedule. And, so, I hope that when we have our meeting next week, the areas I have pushed ahead into will certainly be agreeable to the other task force members. But, I would have to be the first to say I pushed hard ahead. I have written letters asking that I have communications back by a certain date; and if we have not gotten a communication back, we have taken it to be an assent and we have moved ahead.

Commissioner BRUCE. This addition—I am sure it is going to be some help. Is it going to be some help right away?

Ms. SCHEIRBECK. Right away. I, fortunately, had cleared this lady to give us full-time work in the field, anyhow, for March and April. And so that will be a tremendous help.

Commissioner BRUCE. Do you want to continue with the kind of relationship that you have with the other task force member by telephone? Do you get proper response from your letters, and so forth? Or don't you want to answer that?

Ms. SCHEIRBECK. I think it is a difficult question to answer. I have designed surveys, and I have sent them out. And I have said: If you have any problems with this, please call us and let's talk it over; and we will clarify it. The reason is difficult for me to answer. I would hope that he will take on the major part of the State policy study. We have asked him to do that and we have sent material to him. That was something he agreed to do last fall. I respect him very much, and I think his particular insight is needed.

I have moved to bring consultants on, and they are working with us. We do have a contract study through Dr. Art McDonald who, frankly, is going to save our lives because I could not do all of that myself.

I talked to Mr. Barlow several weeks ago about the time pressures we face, and the travel pressures. He was to talk with his Board and get a clear understanding on the amount of time he could give us from now on.

I have reflected my telephone understanding from him in the mandate charged. If that comes off, then I think we are in good shape. Otherwise, frankly, I am going to just have to make decisions, and to use consultants.

Commissioner WHITECROW. Helen, I have been active in recent months on an ad hoc committee on Indian education survey, to assist the National Advisory Council on Indian Education to put together the grass roots thoughts from American Indians.

Recently, I attended a meeting with this particular group, and some of the comments that I heard at that particular meeting were quite distressing to me. They feel that they have not had the contacts without Task Force No. 5 on Indian Education. They feel that our task force has not, in effect, really made a genuine effort in contacting all of the members, nor have we made a strong attempt at contacting the NIEA, the good source of Indian school boards, and also the coalition. This was made in a statement to me last Friday in Denver.

The legislative committee of NACIE had these comments to make. It is very distressing to me that we have not had this kind of rapport; you know, whether or not this is true. I would certainly appreciate for you to make those contacts, and to follow through with those particular persons and organizations contacted.

I would also like to request that you make a very strong attempt, now that we have your task force filled, to get the task force members to coordinate and to cooperate. This particular task force is most important to the Indian people out there in the field.

I would certainly expect that you would conduct more meetings and hearings out in the field also. We need the grassroot opinion of the Indians. I notice you mentioned grassroots or public opinion of the Indians very strongly, but I have found very little work—maybe I haven't looked at it thoroughly enough yet to see how you are gathering Indian opinion.

I think we need to conduct more education hearings out in the field.

Commissioner WHITECROW. I know why the tasks are only 10 or 20 percent completed at this time, now. Will you be able to complete all of these tasks on schedule?

Ms. SCHEIRBECK. I had thought we had more of a percentage completion than you have described, Commissioner Whitecrow, in the first part of our report. We are anticipating, with Dr. McDonald's study and our other two task force members, to be able to complete all these tasks on schedule.

Commissioner WHITECROW. You feel you will be able to meet them?

Ms. SCHEIRBECK. Yes.

Commissioner WHITECROW. How do you intend to accelerate the work in order to accomplish these tasks?

Ms. SCHEIRBECK. Dr. McDonald will be starting the study on the definition of Indian education with a number of communities. The Coalition of Indian-Controlled School Boards has made their lay advocate staff available. They are 10 people we just have to pay the travel which comes to about $2,800.

So, I expect, with that kind of management, to be able to accelerate the workload. I expect, with Ms. Misiaszek giving us full time in the months of March and April, to be able to certainly—and Mr. Barlow's agreement to give us full time—to accelerate the workload.

I expect, at the end of the time—especially at report filing time, beginning in May—to utilize both of them extensively.

So, I do feel that our original desire was, primarily, getting through the research and analysis. We have put most of our effort there, and I think we are on schedule pretty well. You know, we are really into the writeup. I should say, more intensive analysis and writeup.

I think, in terms of our Agency data, if we have some help from the congressional offices as has been offered, and get that within the next 2 or 3 weeks, we certainly have formats organized to compile that and analyze that.

So, I would anticipate catching up by consultants; by groups of Indian people; organizations who have volunteered for these services; and by consultants who are doing positions for us because we have talked with them about the position papers, the kind of thing we want and the timeliness.

Commissioner WHITECROW. Thank you.

Ms. SCHEIRBECK. I would like to comment on your first question about the Indian organizations. Would you like me to do that later?

Commissioner WHITECROW. A little later, please.

I have heard rumors, and these are rumors only, and you know how rumors can be taken. The rumors I have heard have indicated that we have on Task Force No. 5, a personality conflict among our task force members.

I have not discussed this with the rest of the Commissioners, however, I would like to make just one statement in this regard.

We feel that we do have very competent and mature individuals serving in this capacity. We certainly want to impress upon you the fact that we feel this particular task force is so important to the Indian people, that we cannot afford to have any type of a personality conflict that is prevalent within this particular task force.

We certainly hope that the maturity of the individuals involved in this particular task force, consultants, specialists, et cetera, is such that any conflict such as this that might be in existence, is resolved. And, of course, I think this particular statement would go for all of our task forces. Certainly, we have a tremendous amount of ego involved with all of the persons serving in these various capacities. I certainly would want to encourage and make mention of the fact that we need total cooperation.

And we certainly want—if we have personality conflicts to put those personality conflicts aside. Personalities are going to pass on but the issues are going to be with us for years.

Also, Helen, on pages 12 and 13 of your report, you list various organizations which have made commitments to provide your task force with reports and information. Only 4 of the 10 organizations you cite are accompanied by a description of a kind of information to be provided by the task force.

Will your task force have any control over the methodology used by these organizations in collecting the information? For example, will the task force have any input in developing the NIEA poll or their constituents?

Ms. SCHEIRBECK. That is a poll we have developed. That is the questionnaire we asked them to circulate for us, and we are only providing them with the franked envelopes to get them returned. That is the questionnaire designed by our task force.

Commissioner WHITECROW. I see. OK.

Ms. SCHEIRBECK. I might say, about these pages, Commissioner Whitecrow, we are describing what came out of meetings we had with these groups. And if they did not agree to anything in particular, it is not described.

We had written each of these groups, however, more groups than listed here, and asked them to provide for the task force a statement of policy issues and concerns they have about Indian education. We have also asked them to submit the resolutions of their organization again, only going back to 1970. But every national organization has been asked to do that.

Commissioner WHITECROW. Perhaps it is a communication problem we have. But please check into it.

Ms. SCHEIRBECK. I certainly will.

Commissioner WHITECROW. I have another comment I would like to make, and perhaps Mr. Stevens can also get involved with this; and Mr. Hall too. Is he here, Mr. Stevens?

Congressman YATES. No; but his good assistant, Kirke, is here.

Commissioner WHITECROW. In this regard, I have been reviewing correspondence received from the office here, and I think this applies to all of our task forces also. And this, then, reverts to the same problem we have in getting cooperation from the executive agencies of the Government. And this is in regard to a letter dated June 19, and was forwarded to Secretary Wineberger requesting that his Agency be responsive to the needs of the Commission, followed up by a letter of July 7 in which the General Counsel, or Secretary Wineberger, indicated that we should work through Dr. Bluespruce who is the chairman of the Interdepartmental Council on Indian Affairs. And further followed up by a letter dated December 3, whereby we notified Mr. John Rhinelander, General Counsel, Department of Health, Education, and Welfare that we would like to have from their office copies of certain data and information.

And the response from a Mr. Barrett, who replaced Mr. Rhinelander, or responded to our letter telling us that they could not disclose much of the information because of attorney-client privilege, and so forth. And that they would provide us with what they really wanted to provide us with.

Then we also have a letter dated January 7 in which we correspond with Hon. David Mathews, Secretary of HEW, notifying him that we have received a small amount of information from the Director of the Office of Native American Programs, and also notifying him of the responsibility of this Commission to gather data and gather information, and that the executive branch is directed to work with this Commission.

This letter is signed by the Chairman of this Commission, and we requested certain data and information. It has been almost 2 months now since this letter has gone out. I would like to request what kind of response have we received from HEW in our latest letter of January 7.

Perhaps Mr. Hall or Mr. Kickingbird could respond to that.

Congressman YATES. Before they try to respond to that, in order to give them a chance to gather themselves together and make the response, I am told that the reporter should have a 5-minute break, and we will all take a 5-minute break at this time to give him a chance to revive himself.

[Recess.]

Congressman YATES. The hearing will be in order again.

Mr. KICKINGBIRD. In response to the question about the cooperation from the Department of Health, Education, and Welfare: The correspondence which we have had with HEW to date, had raised some problems about their willingness to cooperate, as brought up earlier and briefly addressed.

One of the things that complicated the problem was that we had not heard, after the change from Wineberger to Mathews, as Secretary, whether or not the policy of cooperation that Wineberger had expressed in his letter to us during the summer, would be continued.

At the same time, we had a letter expressing cooperation from the General Counsel's Office of HEW. We sent to him a portion of the law which directs the agencies to provide the information which we request.

And, following that, we began to get some spotty cooperation with materials coming in. This week, we have also received a letter from Secretary Mathews indicating his willingness to cooperate. Now, whether that cooperation comes about, is something that will be determined in the next 2 to 3 weeks.

And that raises the issue which Commissioner Bruce brought up of whether or not we may wish to resort to additional pressures, and possibly ultimately, to subpena powers to get the items which we need.

Congressman YATES. Does that answer your question?

Commissioner WHITECROW. Yes, sir. Thank you, Kirke.

I have a comment, Helen, to you if I may.

Are you familiar with a proposed fiscal year 1977 budget by the administration that established a separate Bureau of Indian Education within HEW?

Ms. SCHEIRBECK. I am familiar with the original legislation on that subject, and I am familiar with the bill that was introduced in the last Congress on that subject. And I am not familiar with the budget justification on that bill.

Is that what it is? The budget justification?

Commissioner WHITECROW. No. This is a proposed fiscal year 1977 budget for HEW.

Ms. SCHEIRBECK. I am familiar with the fiscal year 1977 budget for HEW.

Congressman YATES. The whole budget?

Ms. SCHEIRBECK. No; relating to Indian education. Where moving through the process of the Agency, I have talked with the planning staff.

Commissioner WHITECROW. Are you aware of any proposed move to relocate the education program from the Bureau of Indian Affairs to HEW?

Ms. SCHEIRBECK. I am aware of some, of what I would have to call, rumors. Because I have not seen papers that actually define this. And those rumors have been going on from about 4 to 6 months.

Yes; I am aware from hearing the rumors. I saw the bill that was introduced in the last Congress on that subject. I checked on that, and have been told that the bill was not going into a hearing stage, or was not going anyplace in the Congress.

If you have anything on that, that is in black and white we would certainly like to see it.

Commissioner WHITECROW. As soon as my source of information gets to me, I will make a copy and forward it to you.

Congressman YATES. Any other questions?

Ms. SCHEIRBECK. Mr. Chairman, I need to respond, if I might, please, to two comments that Commissioner Whitecrow raised.

Congressman YATES. You may proceed.

Ms. SCHEIRBECK. It would change the direction of our study. I need to know if that is what you wish to have done. I would like to comment on the Indian organizations.

I had met, beginning as early as September and November, with every one of their boards and asked for cooperation and specific kinds of things with them. And that is reflected in our quarterly report.

In terms of the National Advisory Council on Indian Education: I have been communicating with the executive director, Mr. Lincoln White, and it is our hope that there will be a meeting between—his suggestion was the executive committee of that council and our task force.

So, we have been communicating on this point. I must say, that I did not realize the ad hoc committee was still functioning until last week. And so, I have not been in communication with them, but I certainly shall be.

The other thing I think important to realize is the way we have organized the study: I did not have us carrying on many field hearings throughout the country. But I did have us analyzing the hearings that had been done because I happen to feel, since the 1960's, there has been an awful lot of work done in terms of describing the needs in Indian education. And so, I have not organized a lot of hearings or conferences about these subjects.

I think there is plenty of material available on this subject. What I had done was organize an indepth research study in which the contract is now pending, and which Dr. Art McDonald would direct. And in that study, we would be going into BIA boarding schools, the day schools, the public schools. I feel it is an education for us, and we need to go into the schools; not just call public meetings.

I appreciate this problem, but I do think they are documented. They come before the Appropriations Committee every year; they come before the Interior and Insular Affairs and the HEW Subcommittee. Now, if you think I am wrong, then I need to know that from you because it will require a radical shift in the way our study is organized.

I had also seen in Dr. McDonald's special study, an indepth look at the definition of Indian education. Because, I think the Indian people are confusing, many times, basic skills—which many schools teach—and cultural awareness kinds of things. And we have to get at that definition before we can recommend to you a policy statement.

And then, from that statement, we must analyze how the finances will be organized to carry this out. So, we are planning a grassroots study on that question for reservation Indians, and that would be headed by Dr. McDonald. We would have people who need to be—these communities are at different levels of a culturation. We would have to use interpreters.

And, I had felt that in my analysis of the field of Indian education, that was the big missing link. We need that definition, or we need to know that it cannot be defined by Indian people. So that the policy that is recommended, then, can really be a policy that we hold people accountable to.

And, if you are asking me to go out and do a lot more meetings and hearings, I don't feel that with the time constraints and the money constraints we have, I do not feel we can do both.

We have said we would join in with Task Force No. 10 and with Task Force No. 8, and we will get from those two task forces about 10 hearing site coverages. And we said we would do an additional four or five on our own, which Mr. Barlow and Ms. Misiaszek could handle.

But frankly, we just don't have the money to do any more than that. We went to the National Congress of American Indian's annual conference, because we felt that was a good way to get input from them. And we got a lot of it. But that is the critical question which I have to have some guidance on.

Congressman YATES. Jake, do you want to guide her?

Commissioner WHITECROW. I would like to guide you, if I may.

If I can encourage the rest of the Commissioners to go along with me. Helen, I feel that this is a once-in-a-lifetime opportunity for the grassroot Indian to really have a voice directly to the Congress of the United States.

And, in the past, we have had many reports made. These reports may not always have been made by the grassroot Indian. They were made by the people who were in the field of education, and may not necessarily reflect what our parent councils are thinking today.

I think we need to take this Commission to them. I think we need to get them out there and get our task forces out there. I think we need to get the feeling of the people out there, while one time, giving them the congressional approach, so to speak, and allowing them free word to the Congress of the United States through your task force.

We have a tremendous amount of people serving on Indian councils out there who have a misconception as to what their authorities and the responsibilities are. I think we need to hear them. We need to hear what their thoughts are, because in many respects, they hear only what the administration of that particular school district wants them to hear.

And, when we have persons who come in who are knowledgeable about the rules and regulations, then that particular administration puts that parent council down.

I think this is what we need to look at from a congressional Commission standpoint. And I think you need to get out into the field more; hearing more of the grassroots people.

I think you are probably one of the most outstanding persons we could have employed to do this job. We certainly have the greatest respect for you in this capacity. We have the greatest respect for every task force member functioning, because otherwise, you would not have been appointed to this particular duty.

It is that concern, that expertise, and that respectability that you have obtained down through the years. And we feel we would like to see you get out there, and get the grassroots feeling.

For many years, now, you have been involved in the bureaucracy, and whether or not we like it, before long you join them if you are not careful in your thinking. We would like you to get out there and get the feeling of the people.

Ms. SCHEIRBECK. I would like you to know, we have written to every advisory committee, and every JOM committee, and asked certain questions of them and asked for their input.

Congressman Yates. What has been the response to that?

Ms. SCHEIRBECK. We won't really be able to calculate that until about the end of March, because we have only had our full-time secretary on board since January 5. And so, a lot of our letters did not get out until early February; late January or early February. But all those people have been contacted as well as Commissioner Whitecrow and the advisory committee to the BIA schools. Because, I think it is important to get their perception.

But frankly, I think a position paper on the technical assistance and training needs to help those people, and the Congress should fund that. It is also very important.

Commissioner WHITECROW. There is one thing I would like to remind you. Many of the people serving in these advisory capacities do not have the ability to write; nor do they have the ability to put words together that they feel that they could be proud of or have some forethought to.

Many people will tell you what they feel, whereas, they will not write it down. So, for this reason, I really feel that you need to get out and conduct a few more hearings out there in the field talking to the parent councils, because those are the Indian people that are definitely interested in the education of their children, whether it be elementary, secondary, or post-high school type education.

Ms. SCHEIRBECK. And you feel that the 15 hearings and sites that we are organizing, either with ourselves or other task forces, is not adequate?

Commissioner WHITECROW. If you feel that you are reaching the people, then I would agree with you. But if you don't feel that you are reaching the people, then I would suggest you conduct additional hearings.

Congressman YATES. Does any other Commissioner wish to be heard from?

Commissioner DEER. I would like to agree with Chairperson Helen Scheirbeck, here, in that I feel that there have been very many meetings and hearings in this whole area of Indian education. Many studies, and so forth. I was very glad to hear that you are eliciting them and you are going to be analyzing them.

And, it would be my opinion that 15 hearings would be enough. I am particularly interested in whether or not the task force is going to be doing anything on the Indian studies department for programs in the universities. I couldn't see this in the delineation that you have done on page 1 or page 2, but could you comment on that?

Ms. SCHEIRBECK. In our position paper, I have asked three Indian faculty members to assess for us their institutions of higher educations. Where they are with their Indian studies programs. Whether those programs are impacting the schools of education. The kind of problems they had in establishing those programs. And, if they could try and give some guidance on how really institutionalized in the academic world the whole Indian studies effort.

So, we are handling that as an issue in the position paper.

Commissioner DIAL. Mr. Chairman, at this point, I am reminded of what happened in the earlier days of the Commission.

I recall that I suggested that we hire the chairperson, and let the chairperson sit in, or recommend, or do something with the task force members and the specialists. Well, this didn't go through, as all of us know.

Now, when things become so political they mix up the game and throw personalities together. If that is our problem, Mr. Whitecrow, then we have no one to fault but ourselves. Some of the problems that are involved in Indian education have been brought out here today. And I don't intend to bring them out.

But I believe that we do need to think of—and you sitting at this table—you know what they are. One person cannot do a study. Any chairperson must have cooperation from the people who are involved in the study. Task force members must have the cooperation of the chairperson, also.

So, I am only bringing this out to remind you—I said it in the very beginning—that it was so unfair to come here as Commissioners, and nominate this one, and this one, and this one, and lump people together where there was a possibility of a personality conflict.

And where someone, standing way off in the background would use political influence to upset programs, Mr. Whitecrow—I hadn't planned to mention this, but I would like to mention, at this time, Mr. Whitecrow—that it was in your area that a resolution came out in Portland, at the NCAI Commission meeting, which made a direct attack on the Lumbee people and on Adolph Dial as a Commissioner.

I state this, Mr. Recorder, for the record.

That is all I have to say.

Congressman YATES. Commissioner, do you care to express any opinion in order to provide guidance for the chairperson of this group? What is your feeling about what she has said?

Commissioner BORBRIDGE. In terms of her own organization and approach, I think things are going as well as can be expected at this point. I feel there has been a frank discussion of the problems that have been involved. I would be very much surprised that in the process of all of our task force proceedings, that we didn't have these on occasions. And I think they should be addressed at this point.

The only additional point I would have is that I am always concerned about the quality, as I know you are and the Commissioners are. And thus, I view this as a point of frank encouragement in progress, the opportunities that more of our Indian young people have to attend programs with various universities which are directed at them.

However, in the process of the increase in the number of such programs directed at encouraging native Americans to attend these universities, I would hope that you would be addressing yourself, also, to a maintenance of the quality of these programs.

I am certainly not able to measure, specifically, but as a former educator, I think it is a lifetime brand that we all carry—I am not convinced that all such programs provide the quality along with the opportunity. Quite frankly, I feel that some of them fail to, and I don't think it does a service to the Indian community.

More degree opportunities, without the corollary of what I consider to be absolutely essential, and that is the quality of the training that goes into it.

Thank you.

Congressman YATES. Speaking for myself, I have the impression that you are going at your task in a very capable way. I get the impression that you have got a very good outline, and you have the ideas of what your goal is, and what you have proposed to do. I also gather the impression before our good friend Commissioner Whitecrow spoke, that you did intend to go through grassroot sources in the event you needed it.

I tend to sympathize with his position, when he stated that this is a very important effort on the part of the Commission, and is accepted, as such, by the entire Indian community. The opportunity should not be overlooked, though, of giving them the chance to participate as well in this endeavor.

But, I have the impression you intend to do that.

So, speaking for myself, I think all I want to do is just encourage you to go about your business as you seem to be doing.

Are there any other statements?

Commissioner BRUCE. May I ask a quick question?

Do you have enough help now to do the job?

Ms. SCHEIRBECK. I believe we do, if both Mr. Barlow and Ms. Misiaszek can give us the time they agreed to. However, being a smart administrator, I should like to leave the door open to come back for more help in terms of finances, if after talking with them, we can pick up an do a little bit more of what Commissioner Whitecrow would like to have done.

Congressman YATES. Thank you for a very good report.

Ms. SCHEIRBECK. Thank you, Mr. Chairman.

STATEMENT OF WILBUR ATCITTY, CHAIRMAN, TASK FORCE NO. 2, ACCOMPANIED BY MICHAEL COX

Congressman YATES. Task Force No. 2, Mr. Atcitty.

Welcome, Mr. Atcitty. We are very delighted to have you, of course.

Mr. ATCITTY. I have here with me Mr. Michael Cox, the task force specialist for this particular task force.

Our goal has been to examine the structure and function of tribal government, and the ability of tribal governments to fulfill the needs and desires of the members. And also, to protect and enhance tribal sovereignty, and to meet the needs of the tribal units and enable them to carry out these functions.

With regard to the goal, we have—and I think we have outlined some objectives that we intend to look at in the course of our study—to fulfill this goal.

Very briefly, they ought to examine the powers of tribal governments as they see it, and the limitations they have, and also, to determine what the tribes wish to exercise in the future.

Also, to examine the financial and administrative stability of the tribal governments; and also to examine the internal capabilities of tribal governments to do what they think they should be doing; and also, specifically, looking at the problems of smaller tribes that feel they have an extreme problem in terms of being without a land base to conduct their affairs, and also, in terms of numbers.

Lastly, there is the question of financial capability to carry on. Thus far, I think all the review of our work shows that we may be somewhat behind. I think we have allowed ourselves enough time, in certain areas, to make up for that. Thus far, Mike and I have worked hard, and the progress is pretty much on schedule.

I would like to address certain problems that we have in terms of our work. I was glad to see that in the format that was established by staff, that they asked us to identify certain issues and problems that we are having with regard to our work.

A problem that I have seen thus far is that there seems to be no basis upon which the Commission staff can put together a report. The conduct of work is that we need to know where the points of overlap are. And I think that merely discussing it with other task force members, and talking it over between task force specialists, is not enough.

I think we need to get this out in the open. One means by which we can do it, in terms of identifying what the issues are, and they are obtaining some basis on which we can determine where there was an overlap to determine what direction every task force is headed.

Without this, I see there would be 11 separate reports which aren't coherent, and which will not do much toward developing the final Commission report.

One of the major problems I see, as we go around the country holding different meetings and going to hearings, is that there seems to be some lack of understanding about what the Commission it all about. Even after the Portland meeting, there is still that feeling. "What are you guys doing?" "What are you all about?" It is very difficult to ask a task force, individually, to try to respond to that kind of thing. I think that should have already gone out.

There has to be some intensified effort to inform the Indian people what we are about before we arrive on the scene. There is a shortage of time as it is, and to go in there and spend a day or so trying to explain what the Commission is all about just detracts from the purpose.

I might add one other thing, and that is, there is a need by the Commission, to authorize—or they may be doing it already, I don't know, I'm not aware of it—some kind of determination to find out just where we are socially, and economically in terms of everything.

What is the unemployment rate? What are the indicators in terms of how the economics have gone, and so on, to determine how far we lag in terms of the rest of the society, and what we have to make up. That should be considered by every task force, and also, by the Commission.

Enough studies have been done on that kind of thing, and that kind of effort would be just a matter of pulling those various things together.

I would like, at this time, to ask our specialist to elaborate on the progress that we have made in terms of the studies that we have outlined for ourselves.

Mr. Cox. In the Commission critique of the Task Force No. 2, one of the major concerns they had was the amount of time that was spent on the developemnt of our survey instrument.

The questionnaire that went out to all the tribal governments, in the second quarterly report, I think we explained the reason for the delay, and the effect on our overall progress.

We did address the time it would take to develop a thorough and comprehensive questionnaire which we believe we have developed. But we also allotted a sufficient amount of time for the return of the questionnaire; an overly amount of time. The questionnaire was completed and mailed out to all tribes near the end of the second quarter.

Now, we are shooting for a date of April 1 as a cutoff point for receiving complete questionnaires. We tried to intensify this effort with a high return rate of questionnaires by employing the person who is now the contact with the tribes, and trying to determine whether the questionnaire has been received, and also offered limited assistance in helping to complete this long questionnaire.

To date, we have contacted well over 40 tribes, and have received a very, very good response from them in terms of different and various forms of completion. This has only been over a period of about 3 weeks. We received 10 completed questionnaires from 10 tribal governments.

Congressman Yates. What percentage is that of your total questionnaires?

Mr. Cox. Well, we have mailed out over 400. Besides the questionnaire, we have just completed a 3-day training session of Indian field consultants who will be used for the second part of our survey in tribal governments, which is going to 31 selected reservation sites. They will begin to be in the field at the beginning of next week, and we anticipate April 1, a completion of all 31 reservation sites and interviews.

In our plan of operations scope of work, we outline particular special areas of concern. We felt basic research needed to be done which included not only legal research, but also field visits. Those topics were taxation powers by the Government, land use control and natural resources, regulations of tribal governments, judicial powers of Indian tribes, and a study of the Indian Reorganization Act of 1934.

All of those special studies have been, or are almost completed. We feel they are 75 percent complete. In those particular study areas, almost all the field work has been completed and all reports will be in by March 15.

In the area of hearings and roundtables, we have held to date one joint hearing with a jurisdiction task force in southern California. We felt it was a very successful hearing. In a 2-day time period, we heard from many tribal chairmen and representatives. We dealt with a lot of issues of small tribes. Questions of retrocession and the whole problem of financing tribal government.

To date, we have also held a series of roundtable discussions which we have taped with tribal chairmen. One was held at Bismarck, N. Dak., with the North Dakota tribal chairmen. We just completed one at Phoenix, over the weekend, with the Arizona tribal chairman. We have in the works now, a plan for a roundtable in the Seattle area.

Next, week, the 26th, we will be in Pierre, S. Dak., to meet in a roundtable session with South Dakota tribal planners to get at some of the financial problems of tribal governments and the administrative problems.

Overall, we feel that we are on schedule now, and that we have a sufficient amound of time in which to complete this project. We will have our final report in by July 21.

Congressman YATES. Very good. Do you have any problems the Commission should know about?

Mr. ATCITTY. None that I haven't outlined before.

Congressman YATES. Any questions from the Commission?

Commissioner WHITECROW. Yes; I have a question, sir.

Congressman YATES. Commissioner Whitecrow.

Commissioner WHITECROW. In your scope of work and your plan of operation, State and local governments create special purpose agencies in the exercise of their governmental powers such as housing.

Have you found that the tribes are opposed to creating any subordinate public agencies, or do they simply object to what they see as arbitrary requirements attached to HUD housing authority.

Mr. ATCITTY. I think the concern there is at a couple of levels. One, is that the regulations themselves, impose undue hardships on the tribes themselves in matching requirements, et cetera.

Second, I think that by requiring establishing the indices outside of the tribal government somewhat undermines the tribal governments themselves and we are certainly looking at that aspect.

Mr. COX. Specifically on the HUD programs, the creation of housing authorities: In hearings we have heard numerous complaints from tribal chairmen concerning the problems of having to create a housing authority then the lack of control the tribal government has over the housing authority. It is their belief that housing authorities are making decisions that belong with the tribal government and not with the separate independent housing authority. I think this problem goes beyond merely the HUD programs but there are various Federal programs which were created in the 1960's which were not designed for Indian tribal governments but which are being pushed off on tribal governments. The creation of a whole bunch of independent committees and authorities which the tribal government does not have any control over and which creates obvious problems in terms of planning and development for the reservation. So, it has been a serious problem. It is being expansed by the Indian people through our hearings and through our roundtable talks.

Commissioner WHITECROW. Are you finding, in your studies, at what governments, now in effect are really being looked upon as local entities of government?

Mr. ATCITTY. It varies from place to place. I think that the problem is the capability of the people that are in office who by and large determine how they are looked upon. We found situations in some areas where the Bureau has tremendous influence over legislation, resolutions, or any kind of discussions that are held within the council. And the opposite is true in other areas. By and large the theme that is running through our study right now is that there has been tremendous effort by the Federal Government in terms of strengthening the tribal governments.

Commissioner BRUCE. Do you find that tribal governments have adequate technical assistance furnished by some agency—BIA or otherwise?

Mr. COX. Clearly they do not. They do not have adequate technical resources available. It is one thing we have heard over and over again when we get into areas of the needs of tribal governments. The whole problem is financing tribal governments, getting them a sufficient amount of training and technical resources. We have heard countless stories of tribal governments having to make decisions that have a very strong import on the whole reservation without having adequate technical resources to do it.

Specifically, we were in Arizona over the weekend and we heard from two reservations where there were proposed dams to be built on reservation lands. On one reservation they may take up two-thirds of the reservation if they accept this particular project and settlement. So far, the only feasibility studies that have been done have been financed by the Bureau of Land Management and the Army Corps of Engineers. The tribes are desperately in need of funds and the personnel to be able to make those type of rational decisions themselves, without having to rely on an obvious vested interest with the Corps of Engineers or the Bureau of Land Management.

So, as far as the technical needs, there isn't enough. The tribes are asking for them.

Commissioner BRUCE. Have you had a workshop with the planners yet or is that coming up?

Mr. COX. That is coming up next Thursday.

Commissioner BRUCE. But as far as you have gone: Do you find that planners can be very helpful to the tribal government people in furnishing technical assistance?

Mr. COX. This is certainly an inquiry on our questionnaire and it will be an inquiry when we begin next week with our field studies on the reservations. We are very much interested in knowing what the impact on tribal planning office has been. We will certainly deal with that question next week.

Commissioner BRUCE. The reason I asked about technical assistance: It seems to me that I was going over a list the other day of maybe 140 consulting firms of all kinds and many of those firms had secured contracts to do technical assistance. I have been talking to some tribal people who said: This week we had a workshop on management and next week we have a workshop on management from another agency. I wondered whether you are overlapping and producing any results on improved management in tribal government operations.

Mr. ATCITTY. I would like to ask Mike to elaborate on the experience which one of our task force members had at Salt Lake with regard to this kind of training.

Mr. Cox. Right; the Brigham City Training Center. Alan Parker attended a particular seminar on tribal government which was to help new tribal council members in an orientation toward tribal government and the Federal relationship between the Federal Government and tribal government. The problem was in attendance: Tribal council members were from a variety of States which made it almost impossible to deal in any sort of specific terms. That is, there were so many types of local problems that tribal governments face that you can't generalize the part of having a whole variety of tribal council members from all across the country and deal in any kind of specific terms. So they can only speak to the general terms and this again is a problem. This whole question of training. We have also addressed this question in our hearings. This is a real problem of the tribes: Having sufficient resources to be able to send people out of the State to attend these different training programs and the quality of them have been very inferior. That is, they expect a 1-day training session to cover accounting principles. This sort of thing.

There has been a real interest. Tribes would like to participate in programs of this sort but they would like them to be closer to home. They just don't have the resources to be able to send their members out of State for orientation programs or for training in a particular area.

Commissioner Bruce. It has always been my feeling that if the Nation expects us, as Indian people, to function through the tribal governments, then the Government ought to be willing to fund at least the tribal chairman so that he could do the kind of job he ought to do and was placed there to do. We could make him responsible. Knowing the tribal chairman couldn't afford to go because of the funds, then there ought to be some way of funding the tribal council people, based on their income on the reservation and supply the funds so that he could be there to do that job that he is supposed to do for his people if he was elected to do it. Have you made any kind of study or are you looking into that kind of thing?

Mr. Cox. Yes, Commissioner, we certainly are.

Mr. Atcitty. That issue is in the questionnaire we have prepared to determine this and we don't know what the response will be. We feel it may be kind of sensitive in terms of how we ask it: How they are paid and how much they are paid. But we have asked that question in the questionnaire and clearly there is a problem in terms of running a government without any salary or else having another job and being on a program within the Government and at the same time being a chairman.

Mr. Cox. We aren't pursuing this particular question. It is a very important one for us and so far what we are finding out, especially in the southern California area—we have had hearings there and almost all tribal chairmen and council members are not salaried. It is on a volunteer basis. They have to be part-time chairman, part-time council people because they just don't have adequate tribal resources to enable them to salary these particular positions. They have all expressed a desire to have full time people even though they are small reservations. There is enough work to do on a full time basis just as to the different problems they are facing. It is coming out also in Arizona.

The real problem is having the tribal chairman be a program director in order to have a salary position with the tribe. The problem is: You can't give full time to either position, either as program director or as tribal chairman. So, we are very much interested in the whole question of how tribes finance their own tribal governments. What we are finding out is that there just isn't sufficient tribal revenue now being generated to do that type of work. If tribal governments are going to be functioning in the next century they are going to have to be financed and to be full time positions.

Commissioner BRUCE. Just one last question. You mentioned the fact that you had a hearing with Task Force No. 6.

Mr. COX. No; with Task Force No. 4.

Commissioner BRUCE. Whichever, but it was with another task force.

Mr. COX. Correct.

Commissioner BRUCE. How does that work out? Can you cover what you need to cover or can both task forces double up on the hearings?

Mr. COX. I think it depends on which task forces are holding the hearing together. For us, we are so close together in terms of our concerns that we complemented each other at the hearing. Also, as I mentioned in the quarterly report, I pointed out the reason for the successful hearings was the fact that we worked together on it in advance. We contacted the tribal chairman personally, we worked with him and it was a great help to me having other task force personnel there to go out in advance and set these things up. Because these hearings do take preparation. They don't just happen. I think we can work out together with the Jurisdiction Task Force and we certainly overlap with other ones. In southern California, we focused a lot of our attention on the question of retrocession, of Public Law 83–280, which obviously we are interested in from a tribal government perspective. We, of course, pursued the request. While they are interested in knowing the tribe's opinion about retrocession, we would like to assume the tribes want criminal and civilian jurisdiction over the reservation again. We were concerned about what it was going to to take to do it. So, it can work very successfully and we felt that was one of the reasons for the successful hearings in California.

Commissioner WHITECROW. Can I get a question in?

Chairman ABOUREZK. Jake. Go ahead.

Commissioner WHITECROW. I have got two questions. Recently our staff director sent all of the task forces a copy of the Erosion of Indian Rights, a case study in bureaucracy by Felix Cohen. On page 353 of that study, which was presented to you, it got into a discussion of freedom of election and direct interference by a representative of the Bureau of Indian Affairs in tribal elections. There was misuse of the Federal funds in order to accomplish this and to sway an election one way or another. This took place back in 1950, 1951, and 1952. I am wondering if you have given any thought as to whether or not we still have any type of this activity involved in tribal elections and the election procedures of our tribal officials.

Mr. ATCITTY. We haven't addressed the problems specifically but, in the course of discussions in Bismarck, one of the chairmen there expressed his conviction that there was collusion between the superintendent and his council, because they were related by blood, and consequently, if they wanted to do something in a certain way, they could always influence the council members to get whatever it was passed.

Commissioner WHITECROW. I would like to ask you if you will pay specific attention to this and make this determination. I have one other question in regard to working with tribal officials. In many tribes that I have had the opportunity of meeting with, I have found that in the past, many tribes in either reservation or nonreservation atmosphere, really looked upon their tribal leaders as just elected officials of a civic organization or a fraternal or a sorority type organization.

I think with Public Law 93–638, we are now going to be looking at these tribal elected officials as elected officials of government. Looking at tribal chairmen and tribal chiefs the same as we look at the mayor of the city of New York. In your discussions and your hearings that you have conducted up to this point: Have you been getting any feedback upon how elected officials view their responsibility as elected governmental officials and elected representatives of their tribal citizens? Have you received any feedback in this regard?

Mr. ATCITTY. I think we have been getting different viewpoints. Some of the other chairmen have indicated they view the council and chairman as merely a board of directors. So, there is, you know, a difference of opinion as to what their impression is or what they think of their chairman and council.

The problem here has a lot to do with the way the people are chosen and also how they are paid. You know, the kind of people you get for those positions. I think one thing we are looking at is the thing that Commissioner Bruce brought up, as some long term solution, to pay these people so they can devote full time to those positions in order to do the best job possible.

Commissioner WHITECROW. Do you think that the tribes should attempt to move from an income based on tribal resources to an income based on various kinds of taxes?

Mr. ATCITTY. I have brought out something on page 13 of our quarterly report which kind of addresses that issue. The problem is some of the tribes have a reservation so small that they really can't do anything on a meaningful level or to control anything if they have a substantial area of land.

And another is in terms of numbers. When you consider that over 76 percent of the Indian tribes have a population of less than 500, now, how are you going to get the tax money from them? On the other hand, without the land, how do you expect to develop resources which probably are there? So, we think that some kind of a plan that will address these issues along the lines of the Marshall plan which was instituted after World War II. I think that kind of effort is necessary to be able to develop the economy of the reservation to where they could support their government, to support independent councils, and to make those decisions that they will be required to make now and in the future.

I think it is very crucial in terms of the smaller tribes to be able to finance the operation so they can stick together as a people. Our work here, in one way, is to salvage the culture and the heritage, particularly with respect to the smaller tribes. If they don't stick together, well, there is no need for us to be there because it will be assimilated into the rest of America so there won't be a need for this commission. I am saying we have to give all tribes the opportunity to make it into the next century and centuries into the future.

Mr. Cox. I would say, Mr. Whitecrow, we do have a special study on the taxation powers of tribal governments. In that study, in field research, the Pine Ridge Reservation has been looked into and visited concerning their taxing scale, which they have had for, I think, over 10 years and this is their principle source of private revenue.

We are not necessarily advocating that tribal governments should go out and start taxing but we certainly, in our survey and in our hearing, are discussing the possibilities of attempting to raise revenue through the use of taxation. We are certainly trying to document which reservations are now considering those types of plans or are already doing them. So we can turn in our report and at least show what other tribes or other reservations are doing in this area to gather or to collect and increase their revenue.

Commissioner Whitecrow. Are you then taking a look at the type of revenue that would be generated by the tribes perhaps and recommendations for this revenue to be used to support tribal governments to allow the elected officials of the tribe to get out and participate and attend meetings and to be representatives of their tribes? Is this what you are taking a look at from the standpoint of, say, making some recommendations as to how to support tribal government?

Mr. Cox. I would say yes, we are. We are not necessarily trying to tell tribes that is the way they should try to raise revenue and spend their money. Most tribes, with what resources they do have, are putting them back into the tribal government. It just isn't sufficient right now to be able to do the job. I am sure that if they had sufficient government, that is where the money would be going, or at least one way it would be going.

Commissioner Dial. One short question. Are you looking at tribal government on State reservations?

Mr. Cox. No; we are not.

Commissioner Dial. Why not?

Mr. Cox. The task force made a determination earlier on that we would include within our survey, State reservations because they do have tribal governments which are performing normal governmental functions. We felt we could gather the information and make it available but we weren't really sure what we could do with it in terms of recommendations. It is our feeling that many of these problems of nonfederally recognized governments arise since they simply are not recognized to have powers of self-government. If that be the case, then we are getting into the whole question of recognition and it seems to be a direct overlap with Task Force No. 11. It just seems to be an area that we felt overwhelmed by. We felt like just trying to survey all the different types of tribal governments that are presently in the Indian country and to also include State reservation Indian tribal governments within them and try to analyze that. But to make recommendations would be a difficult task and we couldn't allow a sufficient amount of time for it.

Commissioner Dial. Then perhaps, you would need a statement in your report similar to what you have just made.

Mr. Cox. Correct.

Commissioner Dial. It wouldn't take a lot of time and it wouldn't take a lot of space and it wouldn't take a lot of money.

Mr. Atcitty. I think we said that in our initial papers.

Commissioner Dial. Well, I stepped out for a minute. Perhaps I missed it.

Commissioner Deer. It seems that many of the problems relate to financing. I wonder if you are getting any feedback on the structure of tribal government itself and the reason I bring this up is that we are just in the process of writing a whole new constitution and looking at the old way trying to figure out what should be done for the future.

Does the information that you have so far address itself to that?

Mr. Atcitty. The question here addresses itself to that. You know the works of the various committees, what their jobs are, and what their responsibilities are. The questionnaire addresses that.

Mr. Cox. I would say that one of the tasks we have undertaken is—the Indian reorganization acts—to try to look at the problems that were created by the act. Also, in our selection of the 30 reservations, we purposely included IRA tribes, non-IRA tribes, and traditional tribes with no formal constitution or bylaws. When we gather this data back in, which we don't have yet, we hope to make some determinations about the various forms of tribal government. So structure is a very important concern.

Commissioner Deer. Thank you.

Chairman Abourezk. I have got a question that I want to ask about. One of the problems about a little tribal government, at least the more visible ones, is that many of the chairmen are not accountable nor responsive to the general membership of the tribe. I just wonder if you have tried to take some approach to those kinds of problems? I am specifically referring to what has happened at Pine Ridge over the last 3 or 4 years?

Mr. Atcitty. We don't address that problem specifically but we have considered it as essential to approach it the way you stated it. But I do feel that by having the questionnaire, or by taking the questionnaire to different people within a tribe, hopefully we will get that kind of information.

Chairman Abourezk. In conjunction with that specific problem, on a lot of reservations that I have seen, on what is labeled as tribal government really turns out to be both the use of Federal money and other tribal revenues toward the benefit of just the more aggressive members of the tribe. In other words, it is not used for the benefit of the entire tribe in a lot of cases. The tribal chairman and educated members of the tribe, those who have gone off and gotten an education, and those who are much more aggressive than other ones, are taking advantage and becoming affluent themselves and all the problems of the tribal membership in general are neglected. It seems to me that is a major problem of the tribal government itself. For whose benefit is the tribal government being maintained? Is it just for those who are active in tribal government or should it be maintained for the benefit of people that they are supposed to be serving?

My question is: Are you spending any time at all on how to resolve that issue?

Mr. ATCITTY. We are not on the problem that you have stated there. It is not only one of tribal government, but it covers the whole realm of all of the task forces. There is an education problem. I don't think it is our job to belittle the efforts of those who have gone out and gotten an education on their own or just for being aggressive. Being aggressive is a good thing and we should not chastise anyone for being aggressive. I don't think it is our job to dictate to the tribal chairman or council members. It is up to the individuals. If they wish to become affluent, they can become affluent, if they wish to. But, certainly, the tribal government should respond to the needs and desires of all the members.

Chairman ABOUREZK. I wasn't criticizing the fact that some people are aggressive. What I am criticizing is the fact that the aggressive members of certain Indian tribes have used that characteristic and the lack of aggressiveness or passivity of other members of the tribe for their own personal benefit.

When Federal programs, for example, are directed toward the whole tribe, the benefits of those programs only go to a few members sometimes rather than the tribe in general. Now, that is what my criticism is. It seems to me, that is a direct problem of tribal government. In other words, we have to look at the question of what the tribal government is there for. Are they there to feather their own nests? Are they there to benefit just their own selves because they were able to get elected and because they were able to get an education? It seems to me that they ought to use that education. That they intend to stay on the reservation for the benefit of the membership, not just for themselves. That is more specifically what I am directing to. You will find that the most aggressive people in the world are politicians—Senators and Congressmen—and I am sure not going to criticize that——

Congressman MEEDS. Presidents.

Chairman ABOUREZK. Presidents, sorry. But what I would criticize is probably the use of that office whether it be a Senator or a Congressman, to benefit just a small class of people of the general population. On a reservation, that means the members of the tribe. I think it really is a very important question. I would like some comments from the other members of the commission on that as well. Do you think I am getting into an area that the task force should not get into or is that an important area to get into?

Congressman MEEDS. That is absolutely right. It is a very important issue and ultimately lies at the base of whether or not there is going to be a participatory form of government on reservations.

Mr. COX. You say it may be a very important problem but I think in terms of our responsibility as a task force it is to come back to you with collected information and, hopefully, some types of recommendations to deal with those problems. You get into a very difficult area if you are considering legislation which is again going to regulate tribal government in some other way. That is, by having extensive pieces of legislation dealing with crimes committed by tribal employees and handling of Federal funds or whatever. The basic problem is, you know, we are afraid of trying to legislate in this area. The problem is, perhaps, pervasive but tribes do have a mechanism for removal of officers if they are not doing their job. I don't know what other things that the Commission has in mind that we do in this area.

We are certainly receptive in our hearings and roundtable discussions to these types of problems and we are certainly not afraid to ask them, but in terms of the special area of concern and special study of those areas or special recommendations it is a very difficult area. The task force is reluctant to make recommendations in those areas——

Chairman ABOUREZK. The point is: I don't think you should be reluctant. I think that is one of your prime responsibilities. Let me be a little bit more specific. I haven't given this an awful lot of thought but just superficially: Couldn't there be some kind of a legal requirement that instead of a tribal chairman, who is given Federal program money or contract moneys—whatever it might be—being allowed to hire his friends to administer those programs, why couldn't there be a requirement that the various communities on the reservation—I'm thinking of Pine Ridge right now in fact—be asked by the tribal council and the chairman to organize the community committee to administer the expending of those Federal funds rather than that coming out of the tribal headquarters in Pine Ridge and everything being administered there? That was, as you may know, one of the causes of the political problems that they had a Pine Ridge. It seems to me, that goes to the very core of why Indians feel alienated a lot, not only from the white society, but from their own tribal structure.

One further thing. The Federal Government shouldn't assist in that. They ought to try and prevent or reverse that process. One way to prevent that, or reverse it, is the passage of legislation which might require the money to be distributed to committee groups all through the reservations.

Mr. COX. Senator, I think the task force opposes that particular solution. One of the problems that you find on reservations today is that you have a whole lot of various programs with absolutely no coordination going. On one reservation, you can have four education projects operating with no centralized control. I think that is what we are trying to do. Deal with that particular problem of the tribal government itself not having sufficient control over any of these different programs. Perhaps it is different at Pine Ridge. But I think there is a lot of other reservations where there isn't any control yet over the tribal government itself. This is being expressed to us as being a problem. The tribal chairman or tribal council members perceive it as a particular problem. They can't get into any kind of planning and coordination. If, as you suggest, there is another mechanism that is created to distribute funds on the reservation or whatever, it is just creating another entity that the tribal governments have to deal with.

Chairman ABOUREZK. Give me a specific reason why that is bad. Why is that bad to have several groups controlling their own future and their own lives? What is so bad about that?

Mr. COX. It is hard to set reservation policy that way. Reservations face a whole series of problems which can't be dealt with by a whole variety of groups. There has to be some sort of centralized control of authority on a reservation. This is where we are heading and this is what we are hearing.

Chairman ABOUREZK. The governments themselves, the people, the public?

Mr. COX. From both. By hearing from the public, they would rather see everything controlled centrally, from the general membership. They hear the tribal government is being undermined by having a whole series of programs on the reservation without any direction in terms of a design or a plan for a particular field, like education perhaps.

Chairman ABOUREZK. Well, let's take a specific. You are saying you are hearing this now. Now give me a specific example, if you would. Tell me which reservation you have heard that from and the specific program that you have talked about on that reservation. Let's get into that a little bit.

Mr. ATCITTY. Navajo Reservation and with respect to housing.

Chairman ABOUREZK. Let's talk about that. What is happening there?

Mr. ATCITTY. There was a need to establish a separate entity outside of the tribal government to operate that program.

Chairman ABOUREZK. To operate a housing program?

Mr. ATCITTY. Right. And the problem you are talking about, Senator does not exist only in Indian country but also exists elsewhere. I don't think that the State of Arizona should be penalized for what the State of South Dakota does with their money or the Federal money. I think that is really the issue. I don't think we should be tallying the tribes. You know, they should go in and change the rules again——

Chairman ABOUREZK. What is the existing situation with regard to housing on the Navajo Reservation? Who handles the housing money that comes in?

Mr. ATCITTY. The housing authority.

Chairman ABOUREZK. And there is one central housing authority for the entire reservation?

Mr. ATCITTY. Right.

Chairman ABOUREZK. And the proposal is to change it or something: Is that what you are saying?

Mr. ATCITTY. No, there is no such proposal, because the rules by HUD necessitate having a housing authority in order to get housing.

Chairman ABOUREZK. Do you think that is good or bad in your view?

Mr. ATCITTY. I think it is bad because in terms of some kind of coordinated effort that when you talk about housing, you talk about roads, electricity, water, economic development and all these other issues come in. You can't just talk about one program and leave it at that.

You know, you can't talk about health and leave out tribal government on the Commission itself. All of these things are related. All the work of the task force isn't independent. They all relate somehow. I will agree that they are independent and when you get down to that level——

Chairman ABOUREZK. I think you are right about this. All the task forces are loaded. What it is is a series of 11 separate staffs working for the Commission.

Mr. ATCITTY. There should not be reservations run by community groups. I think it is really a bad thing. It is just like saying, we will have 11 independent task forces doing the work for us.

Chairman ABOUREZK. Well, for example, if you have a different school in each community on the Navajo Reservation, or the Pine Ridge Reservation: Do you think that the funds for all the schools are to be run out of one central office or do you think that the money ought to be distributed out to each local school board if they have a school board?

Mr. ATCITTY. The Navajos have looked at this problem, they have held hearings on it on the Navajo Reservation, and they have taken the course of an establishment of a unified school system for the Navajo Reservation. In fact, they now have public schools—there are BIA schools, there are Commission schools, there are contract schools—a whole variety of school systems to where a ninth grade student may have one level over here and over here, it might be a different level so you can't hope to have any kind of meaningful plan in terms of education with that kind of a system.

Chairman ABOUREZK. All right. But assume you had, for example, in the State of South Dakota, you have got a central superintendent of education and a department of education—they kind of established the kind of curriculum for the State—yet each community has its own school board. They hired their own teachers, they administered the funds that they get through taxes and State and Federal aid and they, in fact, run the school in their community with certain basic minimum standards. Why couldn't that be done on the Navajo Reservation?

Mr. ATCITTY. I think we are going to do something like that in the future.

Chairman ABOUREZK. Do you think that is good or bad?

Mr. ATCITTY. I think that is good.

Chairman ABOUREZK. To let the communities run their own schools?

Mr. ATCITTY. No: to develop a unified system. To where the system is designed by the central Navajo agency and allowing the local school board to do their own thing with certain minimum Navajo standards.

Chairman ABOUREZK. Well, that is the same thing I am talking about. That is exactly what I am talking about. But if you had one central school board running every school on the reservation——

Mr. ATCITTY. I don't think you are.

Chairman ABOUREZK. Well, I am. If you had one central school board with the reservation running every school, out of that central school board without the community itself having some voice in it, I don't think that would be very good and that is exactly what I am talking about.

Now, in fact, if you have your basic minimum Navajo standard and then shift the money out to each community to run their own school, wherever there was a school needed, and you have asked the local community school board for that, it would seem to me that those people would be an awful lot happier politically, economically, and in every other sense that I can think of.

Mr. ATCITTY. What you are thinking of is a system by which you go around the tribal governments to establish community groups to run programs with funds deriving from the Federal Government. If you are going to do that for every program, you know, it is a bad thing, you are undermining the tribal governments.

Chairman ABOUREZK. Wilbur, you know where I think we have got a difference of opinion is our definition of what a government is. You know a government ought not be established just for the benefit of the government alone. It ought to be established for the benefit of the people that they are representing. Anytime you deal out those people or deal around them, because we want to not subvert and not undermine the tribal government therefore we are not going to listen to the people or not have them take part in this; to me, that is not a definition of government. That is just the opposite of government. That is a dictatorship.

Mr. ATCITTY. I had the same feeling about what government is. Government is the people and the government should listen to what the people want. If the people want their government to be listened to, to be looked upon as the government, well I think we should operate that way and not have the Federal Government dictate and say, well, you should establish community groups to run these programs. If the people don't want that, well then, I think we should listen. If the people don't want that, of course, you have to listen to the people.

Chairman ABOUREZK. You haven't held any hearings in Wamblee, have you?

Mr. ATCITTY. No.

Chairman ABOUREZK. They have had a little bit of trouble out in Wamblee recently. I bet, if you went to Wamblee, S. Dak., that you would hear it from Madison or Porcupine. In fact, they have had their belly full of the Pine Ridge government. They would like to undermine the Pine Ridge government. They would like to subvert it if they could, simply because they have been screwed up against the wall by the Pine Ridge government. It just seems to me that while not every situation on every reservation is the same, I would be willing to bet you would be able to find many reservations in the same condition. They would like to have more voice in how the Federal bill is being spent and they would like to be able to spend it themselves and according to their own programs. I think it is one of your responsibilities to look into that. If it doesn't work for the Navajo, say so but if it works on Pine Ridge, say so. It seems to me you can't ignore the problem.

Just because you happen to come from Navajo and things are working fine that way there, I will just reverse it back to you. You say you don't want Navajo to be punished for what South Dakota is doing. But don't punish South Dakota because Navajo is succeeding in one form of government. It seems to me, it is your responsibility to look into those areas all around the country wherever the trouble spots might be. Does that make sense to you?

Mr. COX. Senator, we are not ignoring that particular problem. I think the point was being made that it is a difficult area. It comes in terms with how to deal with the problems themselves, because some of the solutions you suggested do interfere with what we all recognize to be the most basic of the powers of tribal government and that is the right to form their own government. In terms of handling of funds, that still is a governmental function and a tribal governmental function.

Chairman **Abourezk**. Neither is it a solution not to look into a problem——

Mr. Cox. I said we are not doing anything—there is no special focus in our hearings and in our surveys. We are certainly getting into those kind of questions with the people that are interviewed—the responsiveness of the tribal government and the needs of the people.

All I am saying is there is no special studies being conducted in that particular area itself. We aren't excluding it. I say the more difficult problem, the solution to those types of problems——

Chairman **Abourezk**. I recommend that you interview somebody out in the Pine Ridge Reservation and some of the outlying communities there and find out what their view is. You are obviously missing an important viewpoint by a great number of people and I think it would be worthwhile if you were to do that.

Are there any other questions?

Commissioner **Borbridge**. I think I would at least like to acknowledge on behalf of the task force that they have a very delicate mission. I don't say any less necessary because it would be delicate, but rather because on one hand as we proceed on the basis of one of the very important principles of self-determination and exploration of exactly what the jurisdiction is and in what fashion it operates, where it may be strong and weak. I think what we are saying essentially is that we are respecting at that point the established self-governmental unit that is traditional to the people.

I would be, personally, very leery about imposing anything that would, across the board, be affecting or be imposed on tribal government units as such. But perhaps one approach may be an examination of the areas as you are proceeding, organic documents and methods of operation, so that if the Commission feels that there ought to be corrective action available to the people. It does seem to me that this could be done within the nature of tribal government as it operates. That perhaps corrective action, if the Commission feels that there should be one considered, would be one available to the people without necessarily being imposed.

I think one thing that has been very clear in the hearings, that is, it has become very clear during the colloquy in which we have just engaged and that is the evident variety of tribal government.

Rather than to just have the task force proceed with the notion that we will look into this, I would be curious in suggesting to the chairman perhaps that the task force might report back to us how it would perceive this particular task. What I would be curious about is that if you are to go into the field, given the present scope of work as you have outlined it very well for us, and then went to add one dimension and to announce that herewith you will, in effect, be engaging in some evaluation of tribal government. I would be very curious about the nature of cooperation and response because I rather think that you would be called on to define very carefully the process of this evaluation, how you would proceed, and I don't suggest because of its difficulty it should not be done, but I do feel that it is so important that perhaps the Commission ought to have you look at the suggested procedure for implementing the chairman's directive to the task force.

What do you think, Mr. Chairman?

Chairman ABOUREZK. John, you were saying what specifically? That you want to find out first how they are going to go about doing it?

Commissioner BORBRIDGE. I would suggest, Mr. Chairman, that this is going to be a very sensitive area without any question. I can absolutely assure you that it would be. It is going to be so sensitive that rather than have the task force merely go out with its understanding of how we proceed, I would be very curious about how it would intend to proceed in what I perceive as an element of evaluation, the effectiveness, the responsiveness, and so on of tribal government.

Chairman ABOUREZK. I think I understand now what you are saying and that is the tribal chairman is going to raise hell if the task force comes out and tries to do what they call interfering with tribal government.

I want to remind the task force that your assignment is to give Congress some idea of what ought to be done vis-a-vis tribal governments. Your task is not to cater to tribal chairman alone. It is to determine an overall Indian policy and I don't think that overall policy is determined strictly by tribal chairman. I think what John says is not a bad idea. Maybe you ought to let us know how you plan on doing that. That is fine. But I don't think we can put it off too long, first of all. And second, I don't think we can avoid the problem.

If I am wrong, tell me. I am just 1 out of 11 on this commission. But it just seems to me that if we continue in this system and if we continue as tribal governments are, we may as well disband the task force. We are not going to determine all the oligarchic tribal governments. If they are hurting the Indian people we want to stop them, and if they are not hurting them, we will continue. I guess that is the way it looks to me.

What do you think?

Mr. ATCITTY. We can certainly prepare something for you on which you may base a decision. But do you understand that our goal is to protect the tribal governments and to strengthen tribal governments? You know it is going to be very difficult for us to go out to the reservation, and I am sure the members will say: How would you operate? I know there is such and such a program and without the tribal government how can you get the community group involved? It is going to be awfully difficult to go out there to the reservation without being run off.

I can certainly prepare something for you to think about.

Chairman ABOUREZK. Wilbur, can I just say this? In a sense it is a repetition of what I have been saying. But you say your goal is to protect and strengthen the tribal government and I would just add a contingency to that.

Your goal is to protect and strengthen the tribal government if it is serving the people of the tribes. If it is not, then that shouldn't be your goal to protect that government and I would hope that is not the way you view it. I would hope that you would try to find out if, indeed, that particular form of government is serving the people. If so, that is great; and, if not, what are we going to do to change it.

That ought to be your goal really in more detail than the way you stated.

Congressman YATES. How does he know the answer to that, Mr. Chairman?

Chairman ABOUREZK. I would assume they are going out and finding out amongst the folks out there.

Congressman YATES. Can that be done?

Congressman ABOUREZK. Very easily.

Congressman YATES. With respect to every tribe?

Chairman ABOUREZK. Not with respect to every tribe. There are certain trouble spots around the country I think they could probably look into. I suggested one already. You weren't here. You were eating lunch.

Congressman YATES. That is true. I was.

Chairman ABOUREZK. I suggest they go out to Wamblee, S. Dak., if they want to interview somebody who is not satisfied with the way tribal governments are working out. I have been hearing it everyday. I would like them to hear a little bit of it.

I would think that there might be some other places around the country, too. I couldn't give them to you off the top of my head. But I just came back from San Diego last week and I talked to the tribes in southern California and there is a little dissatisfaction there, in fact, with their tribal leadership.

Have any of the other task forces been there? Do you hear the same thing I hear from there?

Mr. ADAMS. In our hearing in southern California, some of those concerns were expressed in testimony by individual Indians who were neither tribal council members nor chairmen. In all of our interviews prior to the hearings, it was brought up quite strongly. So the issue was raised at the joint hearings of my Task Force No. 1 and Task Force No. 4.

Chairman ABOUREZK. It was raised to me with some vehemence by certain people down there. Well, anyhow, I guess that is enough of that.

But I don't know how to say it any differently or more strongly. It seemed to me we would be lacking a great deal though, Wilbur, in our final report if we didn't have that to mention. That is all I am saying.

Jake?

Commissioner WHITECROW. I would like to make a comment in regard to that, Mr. Chairman.

Having been a past tribal chairman and most all of our Indian members here are either present or past chairmen—presidents of corporations, et cetera—from the standpoint of a tribal chairman if I were in office today and this task force were to come into my area and look at my area to make a determination as to whether or not I, as a governing official of my tribe, were doing the job, then I would have no qualms in letting this task force take a look at my delivery of services to the members of my tribe.

If I am doing an improper job, certainly, I want to make those corrections and I feel that most tribal chairmen have this kind of an attitude. If they do not, then, of course, the tribal constitution or bylaws provide for the method of removal of those particular individuals. I think this particular effect is going to come about.

The more we have tribal involvement in the future, the more individual Indians that we will have that get around and view other areas of the Nation and see how one tribe is developing over and above another. Then they are going to their reluctant leaders and asking why does that tribe have things and we don't. And I think this, in effect, will begin to remove those obstacles.

But for the present, I don't see how we can dictate to the elected officials of those tribes on how they should respond.

Chairman Abourezk. Well, Jake, I guess it brings into focus a whole kind of perspective of how this tribal government thing operates.

Now, going back to the Pine Ridge example, an awful lot of Federal program money has gone into Pine Ridge and an awful lot of it was administered by Dick Wilson. One guy. And he essentially ran that government without the tribal council for a number of years simply because the constitution provided that the executive council could do it and he controlled one or two other votes aside from his own in the executive council. He could make all the decisions. Where is the money going to go? Who are we going to hire to administer the money? In fact, the money was distributed by Dick Wilson in such a way that through family relationships, and so on, that he kept himself fairly well in office as a result of how Federal money was distributed.

So, the constitution really didn't mean a thing. When you come to how you are going to vote people in and out of office, if you are an incumbent, if you've got that added edge of being able to distribute dough you can control votes. Democracy is meaningless. It just doesn't mean a thing.

It seems to me that is the kind of thing you have to look at.

Congressman Yates. You are going to do away with the Federal distribution of funds then?

Chairman Abourezk. No. Once again, while you were at lunch, Sid, I recommended that in situations like—and not as a final recommendation, maybe it is not the right thing to do—but, I just suggested, I guess, that perhaps there might be a requirement that community groups in different outlying communities, out away from the tribal headquarters, be given their direct Federal grants to manage and distribute as that community needs it.

Congressman Yates. I am not clear on what you are asking them to do. Are you asking them to itemize examples of mismanaged tribal governments?

Chairman Abourezk. No.

Congressman Yates. What do you propose that they do?

Chairman Abourezk. I am proposing that they take up the issue of accountability of tribal governments to their people. Are they actually being accountable and responsible to their people?

I want to be honest with you. The statement was made—it has been made before by many people—you have to strengthen tribal governments and not subvert them. Well, I don't give a damn about tribal governments if they aren't serving their people. It doesn't mean a thing. Then you should undermine and subvert that tribal government, if it is not serving its people.

Congressman Yates. Suppose, in your view it is not serving its people but in the view of the Indians, it is.

Chairman Abourezk. Well, you haven't asked the Indian. That is what I am saying. I mean if the general Indian community is satisfied with it—in fact, that is the way you want it.

Mr. Cox. Senator there is not a community you can go into that you are not going to have people that are willing to talk about how this Government has done this to them. And I am not quite sure—I would like some suggestions on how you would approach this particular problem. You have to turn anybody away who would want to talk about their tribal government if they are critical of it. We are obviously interested in getting all types of testimony on that but the question of trying to weed that out and make some relevant suggestions for improvement is a very difficult task and not one that we are trying to shirk, but it is one we have to have some direction from the Commission on.

Chairman Abourezk. No; I understand. I don't think there is an easy job in this whole Commission. I don't think there is an easy job for any of the task forces and I hope you didn't expect them to be easy jobs when you all took them and I didn't expect this to be easy when we set up this Commission. And there is one way that it is very easy to find out really and you have to go through the processes to do it—find out whether or not the tribal governments are being responsive.

First of all, you talk to people. Now, naturally, there is going to be disagreements of all kind amongst people. You know, I have always said if I can get 51 percent of the vote in South Dakota, it doesn't really matter what the other people think. But that is not really true in a sense because you have to have some kind of broad base support even though there will be people complaining about the way you do things.

But you have to be able to evaluate what those complaints are. Is it based on somebody being personally mad against somebody else? Or if he says, look, our tribal chairman is hogging all the money. Our tribal chairman has hired only his relatives and his friends. Well, you check that out. It doesn't take very long to check it out. I mean get the complaint first and just find out if there is a valid complaint or not. Then you can find out whether the guy is doing generally what ought to be done.

Understanding, you can't make everybody happy. We know that. Wilbur, were you going to say something?

Mr. Atcitty. I thought my understanding on this was something along the line that Mr. Borbridge was recommending and that was for us to develop a recommendation of how we would approach this problem and send it back to you.

Chairman Abourezk. Sure. We would be very happpy to——

Mr. Atcitty. I am just also, in addition, wondering why people in Pine Ridge were so concerned and if the abuse of power is so prevalent, why are they still holding high office.

Mr. Adams. Our task force is dealing with the situation purely as an analysis of trust responsibility and as a matter of Federal-Indian relations. There have been numerous U.S. Supreme Court decisions that if you find the trust responsibility of the U.S. Government, to make certain that some of the situations like Pine Ridge don't happen.

There are scores of documents out of Pine Ridge saying that that tribal government has not been governed by its tribal constitution for about the last 10 years and that is one of the misuses that has to be looked at on accountability and that organic document.

The case that I mentioned to Congressman Yates—*Long Wolf* v. *Hitchcock*—the whole issue of the Oklahoma Indian was based on that case. The Government said they had the power and the duty to make the decision that the Cherokee tribal government was not ripping their people off. It is an issue—just by the analysis of these documents, these court decisions, and the exercise of the 1834 Federal-Indian Relations Authority—where the BIA has gone in and taken tribal governments away.

The BIA has vacated tribal governments frequently. Not on issues of corruption but on issues of favoritism. We are getting testimony across the country on not only does the tribal government sometimes—but also there is a corruption in the funding process between the Federal Government and a certain tribe.

So, these are issues that we have thought that we could not avoid as a task force. I certainly would hope that we weren't the only task force who thinks it is a matter of concern.

Chairman ABOUREZK. Wilbur, we want to thank you very much. Task Force No. 6 is next. Dr. Everett Rhoades. Everett, do you want to introduce the person accompanying you?

STATEMENT OF DR. EVERETT RHOADES, CHAIRMAN, TASK FORCE NO. 6; ACCOMPANIED BY ALLAN CAYOUS, SPECIALIST

Dr. RHOADES. While I introduce Al Cayous, I wonder if I might have that chart brought forward.

Chairman ABOUREZK. Surely.

Dr. RHOADES. Is it all right if I stand?

Chairman ABOUREZK. If you speak loudly, Everett, I think it will be all right.

Dr. RHOADES. Task Force No. 6 is, of course, a task force on health.

Chairman ABOUREZK. Can I ask you a couple of questions before you get into that?

First of all, what is the date of the final submission of your report?

Dr. RHOADES. In July.

Chairman ABOUREZK. Do you anticipate any problem in getting that report in on that date?

Dr. RHOADES. Yes.

Chairman ABOUREZK. You are going to have a problem?

Dr. RHOADES. Yes.

Chairman ABOUREZK. What are you going to need to overcome that problem?

Dr. RHOADES. I think that with the existing projection that I hope to show with the addition of certain consultants and addition of staffing that we project, that we will be able to meet it. But we will be able to meet it with problems. I don't propose that we will not meet it, but I don't propose that we can do it easily. I think that is an important distinction that the Commission should understand.

Chairman ABOUREZK. All right. One other question, Everett.

What have you defined as the objective of your task force? Will you state that very concisely?

Dr. RHOADES. May I show you?

Chairman ABOUREZK. Yes; do you have that on your chart?

Dr. Rhoades. Yes.

Chairman Abourezk. Fine.

Dr. Rhoades. Let me skip to number 2 here. It is a little bit out of order, but if that is all right—the changes that have been necessary for us to make in task assignments and work assignments has not changed our initial goal. That initial goal is spelled out in the long sheets that are in your packet, also. And that is basically to elevate the health of the American Indians and Alaskan Natives to at least that of the rest of the United States, basically through Indian involvement in determining the following: the needs, the priorities, and the programs.

These, of course, we anticipate will form the basis of our recommendation to the commission.

I may elaborate on some of the anticipated problems before the end of this also.

Chairman Abourezk. Everett, we are running extremely overtime now and running very late. Rather than give a presentation which might run into some additional time on how you are coming with your schedule and so on, I would rather have the Commissioners ask you questions about specific areas that they might be interested in. While you know what that is, what you don't know is what the Commission has in mind as to your direction and so on.

I think that would be a better direction to go insofar as time is concerned.

Dr. Rhoades. That is fine with me, sir.

Chairman Abourezk. It looks like you spent a little time putting that together and I hate to——

Dr. Rhoades. I failed to introduce another staff person. We have Sherry Scott.

I really hope somebody will come and look at this because it represents a tremendous amount of work that she has put together and I want to thank her for doing that. It may be that this will still illustrate some of the questions that will be asked.

Congressman Meeds. Mr. Chairman, how long would it take Dr. Rhoades to——

Dr. Rhoades. I believe I can outline this in 5 minutes.

Congressman Meeds. It would probably save us a lot of questions.

Chairman Abourezk. In 5 minutes. Go ahead, Everett.

Dr. Rhoades. We have felt it necessary to revise part of our work plans somewhat as part of our own deliberations and part of the suggestions made from the Commission and the staff so that we now have a more task-oriented schedule. This will become obvious also.

We have listed obtainable activities. We have retained the objectives which are contained in your packet of which there are 14. I was told that everybody wanted to be sure and hear that we are not going to New Zealand. I don't have time to defend the validity of that kind of a comparison of Indian health. But that might be a recommendation of our task force.

Chairman Abourezk. You can leave that for the Congress to go to New Zealand and Hawaii.

Dr. Rhoades. The purposes of our revision, we think, will permit us to more nearly monitor the activities and assure the completion of our schedule on time. And it will provide us functional tasks that are related to our scope of work.

This is our goal as I have showed you. An example of an objective and our method of developing task and the evaluation of our progress is listed here as objective No. 2. That is to develop input from the Alaska Natives and American Indians relative to the kinds of problems that we will identify. And under this objective the following task, No. 1: Is to create input instrument; to select representative sites; plan a schedule; field test the input instrument; distribute the instrument; collect the data; and then rank and prioritize the information gathered.

And each objective, more or less, follows the same kind of thing.

I might just show you a list of the objectives. The major objective, of course, as specified by the law itself, is the evaluation of the Federal responsibility. These percentages represent our estimate of where we are at the present time in relationship to completion of these objectives: An impact study of the Indian Health Service itself; the 3-day symposium to conduct eight hearings in selected areas in the field; to examine health board results, that is, an evaluation of something that has been newly developed since the transfer of the Indian Health Service from the BIA to the Department of Health, Education and Welfare, that is, the representative boards themselves; interpretation of current health statistics; identification of current environmental services; and evaluation of personnel functions which overlaps a little with the impact study of the Indian Health Service; to examine the basis of policy or lack of policy resulting in the denial or granting of health care to American Indians; and finally, to identify health related social services in the Federal Government and in State and other governments as well. An example being the mental health programs which basically have evolved to States, but not on the Federal segment. An examination of the impact of national health insurance has been completed. An examination of the impact of traditional medicine and then finally the preparation of recommendations. Some of which we already have formulated in a very tentative way.

You might prefer to reserve budget questions to another time and, if so——

Chairman ABOUREZK. You may as well go through it.

Dr. RHOADES. The major budget alterations resulting as of this month, have to do with shifting money away from that reserved for task force members, salary, remunerations and travel, and the acquisition of other individuals. For example, a research assistant, Ms. Scott. Travel for the task force members will be diminished somewhat. Hearing expenses have been added in. The Commission will perhaps recall my scientific objection to hearings as a way to arrive at scientific data which has been altered somewhat. And then training that is going to be necessary for those who are administering the sample.

So, that these represent the major budget shifts and will result in us having a balance of something like $275 at the completion of the study.

Chairman ABOUREZK. Everett, you are not asking for any more money?

Dr. Rhoades. Oh, no, sir. We are going to give back $275.

Chairman Abourezk. Well, you know, I was listed as the least wealthy U.S. Senator last week, so I am happy to get that.

Congressman Meeds. That was last week.

Mr. Cayous. I was surprised you didn't object to that phrasing in the paper.

Chairman Abourezk. I would have phrased it differently if I were writing it, but nevertheless, I understand what you are saying.

Dr. Rhoades. I didn't introduce Mr. Al Cayous who is our task force specialist.

The other two task force members are on a field site visit at the present time in Alaska.

That concludes my statement.

Chairman Abourezk. I didn't think you were going to do it in 5 minutes, but you came awfully close, Everett. Thank you. Because it looked like a big thick sheet of paper up there.

Well, just one general question that you are going to have for us by way of recommendations—what it is going to take to bring up standards of Indian health both on reservations and in the urban areas—is that correct?

Dr. Rhoades. Yes; that is correct.

Chairman Abourezk. And you anticipate you have gotten far enough to know whether or not clinics are going to be required to be built and staffed in some of these cities where there is a substantial Indian population.

Dr. Rhoades. That data is incomplete. But there is sufficient data at the present time to permit that conclusion. I would want to reserve the right to modify that by July, but it is clear at the present time that that is a need.

Chairman Abourezk. Are you studying on reservation areas, in particular, rural health delivery systems of various types?

Dr. Rhoades. Yes. We propose to take, for example, the extreme situation, I think, is that in Alaska where I suppose the individual Indian who lives the farthest from medical care is 1,500 miles, as a representation of that kind of problem.

Chairman Abourezk. I might say that I personally have a great deal of hope for the outcome of your study, so that it will become a model for all rural health care delivery in the United States. This in fact is going to be one of the great beneficiaries of the reports—is what you will come out with in that regard. I hope, also, that you will study what is happening in the People's Republic of China and that you will include references and comparisons. From what every doctor I have talked with who has either been to China or has studied the Chinese system over there had to say, it appears to me to be the most admirably suited to our rural health care delivery in this country. That kind of a comparison, in an official report of this nature, would be very good. I hope that it is done.

Dr. Rhoades. As a matter of fact, that is an excellent suggestion. We hadn't thought specifically of that kind of example, but I think it does illustrate a point that I discussed in one of the little work papers included also in the report. That there are several comparisons that are necessary in order to evaluate what Indian health status is and what it ought to be. The traditional comparison at the present time is to compare Indian health with that of the rest of the population. There is a wealth of data relating to that.

Chairman ABOUREZK. When you are done with your presentation, I want to get together with you and I will give you the name of a doctor here in Washington, D.C., who might even be willing for no charge to write that part of the report for you on the Chinese medical system, if you are interested.

Dr. RHOADES. Oh, yes; very much.

Chairman ABOUREZK. I have no more questions. Does anybody else? Lloyd Meeds.

Congressman MEEDS. Thank you, Mr. Chairman.

Dr. Rhoades, as I am sure you are aware, the task force which you are heading at one time was at least conceived to contain in addition to just what you are studying now: health, alcoholism, and housing.

I get the feeling that there is very little lateral communication between task forces about what they are doing. It would seem to me that above all things, there would have to be a lot of lateral communication between your task force and the task force on alcoholism and the task force on housing.

Could you tell me if that is taking place and, if so, what benefit you are getting?

Dr. RHOADES. I would really be less than candid if I were to tell you that there have not been major difficulties—not problems. But the difficulty of intertask force collaboration has been difficult for me personally and for our task force. That is, every task force has just been completely snowed under with trying to get itself moving down the road. I don't say this as an unfair kind of statement, but the conferences that we have had and discussion with other task forces make me feel a little bit embarrassed because they are so busy that they really don't have that much time to devote to us.

Now, on the other hand the fact of the matter is, with one of the members of the task force on alcoholism living geographically close to me and with our obvious very close interest, I feel that our collaboration with them, up to this point, has been quite helpful. The problem of collaboration with the other group sharing the responsibility for housing has just simply been that we have been preoccupied with other things and, perhaps incorrectly, have assigned that a priority that we have just now arrived at.

But as of this meeting in Washington, at the present time, we plan to share with that task force hiring of an individual to help put together the recommendations relating to housing.

So, I am saying that I believe that our collaboration should now be much closer than it has been in the past.

Congressman MEEDS. In our hearings on the Indian Health Care Improvement Act, alcoholism was listed by almost everyone either as the number one or number two health problem—so it couldn't be any less than two.

Now, has the alcoholism task force been in touch with your task force?

Dr. RHOADES. Oh, yes.

Congressman MEEDS. They have?

Dr. Rhoades. I wouldn't guess at the number of instances that we have had conversations jointly—in person and over the telephone.

Congressman Meeds. Will you have recommendations in your report with regard to any facilities, or alcoholism programs, or coordination of Indian health programs with so-called alcoholism programs?

You must understand I was not in favor of breaking these in two. I thought it was a health problem.

Dr. Rhoades. It is too early to give a firm conclusion about that. What I visualize will happen is that we will amass data and recommendations that will be overlapping in many instances with that of the Alcoholism Task Force and we will decide, between the two of us, which one should contain the thrust of recommendations or perhaps a separate one for each.

For example, there is a great discussion going on in this country right now as to what alcoholism is—like this same question is, what is health, and whether alcoholism is a manifestation of an internal derangement of some kind. That is: Should alcoholism be in the field of mental health?

I don't think the questions are interrelated to that. But other than that, there clearly are medical complications of alcoholism which, I think, are going to be more appropriate for us to address and which would lead to recommendations that would be adjunctive to recommendations made by what I believe the Task Force on Alcoholism is developing.

That is, whether or not there are real differences in the development of cirrhosis of the liver between tribes. I, as a task force member with a particular task of health statistics, have an enormous stack of data on my desk right now relating to the appearance of cirrhosis in Indian tribes in Oklahoma. We find, for example, that one tribe in Oklahoma accounts for nearly one-half of the cases of cirrhosis. This is a problem, the magnitude of which is so great, that I believe that we could best devote our attention to working alongside the Alcoholism Task Force.

Congressman Meeds. Do you find that the Commission staff has helped in this intertask force coordination? Or could there be more help coming from the Commission staff?

It almost seems to me that this has to be coordinated at the Commission level—the total coordination of all the task forces.

Dr. Rhoades. I think the staff and Commission have been helpful. Again, I would not be candid if I were to say that there were not some very distinctive problems related to this coordination, which I don't really believe can be traced to an individual.

I believe that it simply represents the magnitude of the problem to be studied in this restricted time period. So let's say the urban task force, which we want to collaborate with very much, have got their schedule made out for the rest of the year and it is very rigid. They don't have the luxury of changing that to meet our time schedule which is just as rigid. So that there is not anything that a Commission staff person can do about that.

Congressman Meeds. Well, maybe there better be something that the Commission staff can do. Because if you go off over here, and they go off over there, and you never meet on health problems of urban Indians or nonreservation Indians, we are not going to have much of a report on that: Are we?

Dr. Rhoades. The report will be substandard, suboptimum.

Congressman Meeds. Right.

Dr. Rhoades. It represents just another area where we really need to be able to do more together. But I don't see that the staff can accomplish that.

Congressman Meeds. Maybe, as a commission, that is something we have to work with?

Dr. Rhoades. It is a problem that has to be dealt with daily.

Congressman Meeds. Are you getting what you consider to be full cooperation and effort out of all of your task force members?

Dr. Rhoades. No. Well, let me modify that.

Congressman Meeds. I hate to bring up the sore subjects, but somebody has to.

Dr. Rhoades. I think that if I were to list the impediments—the whole problem has got connotations that I would just as soon stay away from—but let's just say impediments to accomplishing our task. There is no question in my mind but at the present time—other than the fact that a person really would not design a research project the way this has been designed and implemented and all that, as I outlined in my first presentation—the fact is that the task force members have not been able to meet their commitments. I think the reasons for that are overwhelming and have to be dealt with. I feel very keenly that Mr. Cayous and now Sherry Scott do not get the support and direction that they should have from me.

The alternatives are fairly clear. One of which is that there should be another task force chairman, which opens up a set of problems that I think isn't clear to me whether or not that would really be desirable at this point in time, or to just try to do the very best that we can.

For example, the only real block of free time that I have been able to carve out of a schedule that was already set for me for the year—long before the task force was formulated and which I have been unable to change—is at the end of the year. But I think my greatest contribution might be made anyway. That is in the assembly, formulation, and putting down of the final recommendations.

Congressman Meeds. Have you attempted to gather your staff, perhaps even in your own home area, and give some broad general outlines and perhaps give them more authority to work within those guidelines?

Dr. Rhoades. Yes; that has been my personal, total philosophy from early on. The problem with that is that it is very difficult to show, let's say, at the end of a time that a task force member has accomplished a quantum of work.

Congressman Meeds. I don't know that we are necessarily looking at a specific task force member, as long as the totality of the work gets done.

Dr. Rhoades. I am sure of that question.

Congressman Meeds. I did not mean to imply that we should keep time records on task force members and then measure how much work they are getting done. I think it is a totality of work and sometimes using your knowledge just to point at a general direction to staff and letting them work out the specifics is ample contribution by yourself.

Dr. RHOADES. I believe that we are fulfilling that role.

And, again, at the initial presentation, I tried to emphasize that the acquisition of information will not follow a progressive linear curve anyway. But that there will be a great acceleration of information and everything will come in during the last 3 months.

Congressman MEEDS. Thank you, doctor. Thank you, Mr. Chairman.

Chairman ABOUREZK. Other questions?

Commissioner BRUCE. Yes, Mr. Chairman.

Everett, and I suppose I should ask Task Force No. 7, we have been receiving some complaints and inquiries relative to the lack of attention to the housing problem. I want to ask whether your task force plans to review the housing problems of American Indians?

Now, let me say this first. I am not sure that I am the only one on the commission that really wanted a task force on housing. I did. I fought for it and lost. What I thought would happen is happening and that is it is receiving very little, very little attention from the other task forces. The problem is too great to overlook. I am just wondering whether your task force—and I am noticing Ernie's answer to a letter on the 16th of February indicating that Task Force No. 7 and Task Force No. 6 would look into these problems immediately. I find very little attention being given.

Do you expect to include this?

Dr. RHOADES. Right. I thought I had mentioned awhile ago that we will share the cost of a consultant with Task Force No. 7 and—I am anticipating a little bit so I won't go into detail—a report, I think prepared perhaps this morning, by Task Force No. 7 which I will defer to.

I don't think we need to discuss the obvious implications of the value of adequate housing as it impacts on health. The answer is yes.

Commissioner BRUCE. Then I will wait for Task Force No. 7.

Chairman ABOUREZK. Just one other question on my part. I forgot to ask you. On the Rosebud Conservation, the United Auto Workers provided two mobile health units to the medical people there and Control Data—I think it is—has provided computer systems to go in on the mobile health plan. Do you know about that?

Dr. RHOADES. I am not familiar with that specific one. There are two or three others similar to that.

Chairman ABOUREZK. That is that only one I have heard of. But, at any rate, what they are going to do is computerize the tribal memberships' health records, put them in the vans and send out traveling health teams to the outlying communities. One of those systems ought to be, probably, included in the final report because I think it is an excellent example of what can be done with rural medicine.

Dr. RHOADES. Yes. We had anticipated using the small tribes of western Washington, who have precisely that same kind of program and computerization, as an example.

Chairman ABOUREZK. It doesn't matter. I didn't know about them. The only one I knew about was Rosebud.

Any other questions?

Commissioner WHITECROW. I have a question, Mr. Chairman.

Doctor, have you had any difficulty in getting any information from the Indian Health Service or any other Federal agency?

Dr. RHOADES. The only difficulty has been from the Department of Health, Education, and Welfare. Indian Health Service has been very responsive and the group in Oklahoma City, the area staff there, have been very, very helpful to me.

I think the Commission knows that Mr. Cayous—being on loan from the Indian Health Service—has a very effective insight and ways of extracting information. What I don't know is what we are not getting, of course. But we are not suffering from a lack of data. Quite the contrary. There is an enormous amount of medical data.

Mr. CAYOUS. Do you mind if I add a little to that?

We have had some problems on legal opinion, and other materials of this type, from the legal office. We had some rather holding actions that were presented to us when we asked for information. We were rebuffed on our inquiry at one time. The attitude was changed and then they said the material would be available but they would be unable to prepare copies of it—you know, these kind of nitpicking administrative things that should be easily overcome. They set several of these stumbling blocks in our way. They have made their files available to us now. They still say they don't have the capability of reproducing any materials we may want to bring back with us to use in our own study here.

These are the kind of minor things that we have been running into on the health aspect. I don't know how the people are doing as far as education is concerned or the other programs.

Commissioner WHITECROW. Are these obstacles that you are running into sufficient in nature that they might tend to hold up your report?

Dr. RHOADES. Well, they don't help.

I think it would be fair to say that it does represent another impediment and that it does slow down the process. Now, I can't say how many days our report would be delayed, but I think the fact is: Yes; it is an impediment.

Commissioner WHITECROW. Certainly. We would like to ask you to be sure to stay on top of this and if you need anything, and I think the Commission is in full accord here that we need to get this data and this information, so very definitely we would like to ask you to be sure to coordinate your staff director on this.

Commissioner BRUCE. Everett, one question. Those are excellent charts. Is it possible for us to have a copy of the charts?

Dr. RHOADES. You don't want 11 of these?

Commissioner BRUCE. No.

Chairman ABOUREZK. Well, if there are no more questions——

Commissioner DEER. I would like to know what consultation there has been with the American Indian Physicians Association and the American Indian Nurses Association and what do they think of the whole study format and what suggestions have they made?

Dr. RHOADES. I spent the better part of a day with the Association of American Indian Physicians while we were all in Portland and they had no significant alterations to the plan. They made a number of kinds of suggestions about where to obtain data and that sort of thing.

We are in the process of developing a close liason with the American Indian Nurses Association. The executive director of that organization—the process is in order now for that person to become a consultant to us and help us on the field study. Rosemary Wood would be a consultant to us.

Commissioner WHITECROW. In regard to Indian health in relation to self-determination, doctor. Have you given any thought insofar as the delivery of Indian health service to tribal members, wherever they may be?

What I am referring to here is in the event a tribe undertakes a contract for, we will say, a service unit, and that tribe is restricted to only those funds that are available in that particular budget: Have you, at any time in the point of investigation at this particular point in our work, given any thought as to how we could perhaps make a recommendation so that the tribal government would be responsible for the delivery of Indian health services to its members irrespective of where they may be located at that particular needed time?

What I am referring to here is the urban health situation. That an Indian who leaves a reservation area—an Indian who leaves his home treaty-bounded area, no longer affiliated with his particular tribe but still being proud to be an Indian, being proud to be a member of his tribe, but not having any services delivered to him as a result of his relocation—have you given any thought as to perhaps how a third party payment might be negotiated by the tribe to, say, urban health clinics?

Dr. RHOADES. Yes. We don't have data related to that but the question there that we are putting together will include that as part of the data that we will collect, not only as it relates to tribes who are contracting, but as it relates to the Indian Health Service also, because that is another mechanism where the same thing may occur. But we have no data relating to that at this moment. But we will have before the end of the study.

Commissioner WHITECROW. What I was thinking of in terms of—perhaps it might be needed—an identification card which could be utilized in this regard and allow the clinics then to identify those persons who are eligible and then charge back to their tribe on the third party reimbursement. This might be one solution.

Dr. RHOADES. We, not the task force, but a group of us have attempted to secure a demonstration project in Oklahoma City related to that specific question. That is a beautiful example, I think, of a hypothesis that should be tested.

As you probably know, the Indian community that I have talked with in day-to-day work are not completely in agreement as to whether or not this is a useful thing or not a useful thing. I think it would take a few years to generate a consensus. The experiment should be done. It should be tried. I don't know that that recommendation will come from our task force, but a recommendation will come from our task force related to that which is part of an overall access problem.

Commissioner WHITECROW. I would like to visit with you a little bit later on in regard to that specific item. Thank you.

Chairman ABOUREZK. I would like to express my thanks, then, Dr. Rhoades, to you and your staff members for your report and the work you have done.

Dr. Rhoades. Thank you.

Chairman Abourezk. Task Force No. 11—Alcohol and Drug Abuse. Reuben Snake. Is Reuben here? Reuben, do you have somebody with you? A specialist?

STATEMENT OF REUBEN SNAKE, CHAIRMAN, TASK FORCE NO. 11; ACCOMPANIED BY GEORGE HAWKINS, MEMBER; AND STEPHEN LaBOUEFF, SPECIALIST

Mr. Snake. Mr. Chairman, we have Mr. Stephen LaBoueff, Jr., who is a task force specialist and Mr. George Hawkins, the other task force member.

Chairman Abourezk. I will ask the first couple of routine questions. First of all: What day is your report due, Reuben?

Mr. Snake. The 3rd of August.

Chairman Abourezk. Are you going to have any problems getting the report submitted by that time?

Mr. Snake. Not since we have revised our scope of work plan.

Chairman Abourezk. So, you are OK on the report date. What have you outlined as the objectives of your task force?

Mr. Snake. I think I will let Mr. LaBoueff answer that question.

Chairman Abourezk. OK. Mr. LaBoueff, what are the objectives of your task force?

Mr. LaBoueff. First of all, our goal—you must have a goal first and then the objectives coming from it, and to examine and analyze those factors which are necessary to place the problem of Indian alcoholism and drug abuse respective to the Indian people and their community and also the Federal responsibility toward allocating resources to combat it.

Chairman Abourezk. What does that mean? I don't know what that means.

Mr. LaBoueff. Looking at the field of alcoholism and the history of it, the program that has been designated toward a demonstration ground, for instance, are relatively new and there is some difficulty in deciding whether it is a disease or illness and which is the best way to set up programs in order to examine one of the causative factors of alcoholism and this is what we are trying to do, is place this in perspective.

Chairman Abourezk. Can I interrupt your presentation for just a half a second and inform the Commission that one of the members of this task force apparently—we sent ballots out on the removal of Bob Moore on this task force and we haven't received them all back yet and I think that—have we got a quorum here? I think we may as well—we didn't get all the ballots back so we may as well make the action formal here now.

I will entertain a motion for the official removal of Bob Moore from this task force at this time.

Commissioner Whitecrow. Mr. Chairman.

Congressman Meeds. Mr. Chairman, I move that we accept Mr. Moore's resignation as of now.

Chairman Abourezk. Is there a second?

Commissioner Whitecrow. That was what I was going to bring up, sir.

Chairman ABOUREZK. Let's get a second and then we will debate it. Is there a second to that?

Commissioner DIAL. I second.

Chairman ABOUREZK. It is open for debate.

Commissioner WHITECROW. What I want to do is make mention of the fact that it is my understanding that he had resigned.

Chairman ABOUREZK. That is my understanding, too. We have not received the official letter. But in the absence of that, I think we will have to have an official action, because he's still on the payroll until we either get a letter or take action.

Congressman MEEDS. Mr. Chairman, it is my understanding he has expressed either orally or in writing that he wishes to resign.

Chairman ABOUREZK. That is right, orally. Not in writing.

Congressman MEEDS. And I think with the acceptance of this group, that will be complete then.

Chairman ABOUREZK. So, the motion has been made and seconded to accept Mr. Moore's resignation. All in favor will say "aye."

[Chorus of "ayes."]

Chairman ABOUREZK. Those opposed, no.

The "ayes" have it. The resignation is accepted and I would like to express our gratitude to Mr. Moore for his services.

OK. We can talk about a replacement, Reuben, if you would discuss with Ernie or any other members of the Commission your suggestions and ideas for a replacement. We will be happy at the next Commission meeting to then talk about that.

You don't have anybody in mind yet, do you?

Mr. SNAKE. No, sir.

Mr. Chairman, I would like to suggest that we retain Mr. Moore on a consulting basis.

Chairman ABOUREZK. We will have to take that up as a Commission, unless anybody has any other suggestions at this point.

OK; now on alcoholism. I guess in trying to understand what you have outlined as your objectives for this task force and how you will submit your report, that you are going to try to define the nature of alcoholism, whether it is a disease, a mental disease, social disease, whatever. And in that way you are going to try and find out how it can best be treated and handled; is that correct?

Mr. LABOUEFF. Yes, sir. That is basically correct. There is a lot of literature and studies that have been done concerning the matter and we are going to try and collect it, analyze it, and make our recommendations.

Along this line, we are also examining the programs that have now been formed; and the demonstration grants, to see if they have been effective in trying to establish some kind of recommendation for a national program that will direct itself toward solving some of the problems of what the Indian people consider their number one problem.

Chairman ABOUREZK. If this national program were to be put into operation: Do you know yet how best to distribute the money for that kind of program? Whether it is going to be through Indian Health Services, alcoholism treatment organizations, or how? I would like to hear your views on that.

Mr. LABOUEFF. I can venture a guess on how I think it should be done.

Chairman ABOUREZK. Please.

Mr. LABOUEFF. As far as making a predisposition—I would rather not at this particular time but I would guess that the matter should be taken out of the hands of NIAAA and transfer the Indian alcoholism programs to the Indian Health Service.

Chairman ABOUREZK. And your guess is the recommendation might come out that way: To put it in the hand of the Indian Health Service?

Mr. LABOUEFF. I would think as far as legitimizing the Indian alcoholism program and protecting them, I think that it would be best placed under the Indian Health Service in some form.

I might add that I would not like to see it lumped together with another program. The direction of the program would be best serving its purpose by having it a separate group.

As you know, the Presidential budget right now proposes a $4 million cut in the program. Now, that is a two-third funding going on right now. I personally would not like to see that and I do not think the Indian people would like to see that supported.

Chairman ABOUREZK. And what about recommendations insofar as how the governmental authority should handle alcoholism? For example, in some of the cities in South Dakota for a long time the way it was done was that alcoholics were arrested and thrown in jail to dry out. Some of the cities have stopped that after determining that it didn't work. I think we all know that type of thing never works. And then, instead, they were placed into treatment and detoxification centers.

Will you make a study in areas of the country where arrests take place and other areas where they now put them in for treatment rather than arresting them and make recommendations in that regard? Is that part of the scope——

Mr. LABOUEFF. Yes, sir; it is. We are trying to examine just exactly what there is now in the field of Indian alcoholism. And so far a study has supported a premise that I already had: That there is no legislative authorities or formal policy on Indian alcoholism. There is a proliferation of programs that aren't too well coordinated based upon the studies that we have been able to come up with so far. We think that formation of a separate Indian alcoholism program will enable a coordinated effort towards solving that particular problem. And it would be their particular charge to examine the example you just mentioned.

Chairman ABOUREZK. OK. Are there questions?

Congressman MEEDS. Mr. Chairman, I think it is no secret that Task Force No. 11 has had some substantial problems. A I look at the reports, I see that you completed about 20 percent of your assigned objectives and you have utilized 55 percent of your time to achieve about 20 percent of your objectives. You have expended about 29 percent of your budget. So those two things are in pretty good balance.

Do you want to just give us in your own words why you think this situation exists and what steps you have taken to do something about it?

Mr. LABOUEFF. The present situation of the task force is such that we had to stand still and take a look at exactly where we are. The 55 percent of the time that you are speaking of is from the beginning of the task force and, as you know, there were some controllable and some uncontrollable factors that affected the task force.

At the particular point January we had to take a look——

Congressman MEEDS. As a matter of fact, I don't know that there were some controllable and some uncontrollable factors. Now, that is what I am asking you about.

Mr. HAWKINS. May I answer that?

Yes; there was an uncontrollable factor there. Our original appointing of a task force specialist—the appointee had been killed.

Congressman MEEDS. I am sorry, sir.

Mr. HAWKINS. Well, our original appointee to task force specialist was killed.

Commissioner MEEDS. I see. And does that account for the——

Mr. HAWKINS. Yes; I would say that that would account for a great deal of our——

Congressman MEEDS. How long did it take to appoint another person?

Mr. HAWKINS. Two months.

Congressman MEEDS. Two months?

Mr. HAWKINS. Yes.

Mr. SNAKE. Mr. Meeds. I would like to elaborate a little on what Mr. Hawkins has said. When this task force was originally established, we were informed in our orientation session that we would have to share the task force specialist position with the Health Task Force. Therefore, we did sort of delay the selection of a task force specialist while we were attempting to discuss a mutual candidate with Dr. Rhoades.

Finally, we determined that it was important that we have our own task force specialist. And so we started the process of recruiting candidates and what we ran into was the fact that all of the people who had the expertise and the qualifications to do the job were so involved in their own program and in their own activities in the field of alcoholism that we couldn't get a commitment from some of these people that we felt could do the job. They didn't want to give up what they were doing because they thought it was very important. They didn't want to give it up for a year even though they recognized the importance of the Commission's work.

And, finally, we got Mr. Paul Littlechief from the Commission on Alcohol and Drug Abuse to commit himself to the program and then, of course, very ironically and tragically he was killed not too long after he got underway with our program.

Then in trying to keep the operation of the task force moving, we selected an interim task force specialist, Mr. Amos Hopkins and Mr. Hopkins had to start all over again in catching up with what Mr. Littlechief was doing and trying to accomplish the duties that we assigned to him and then, for whatever reasons, Mr. Hopkins was not selected to remain as the permanent task force specialist. Mr. LaBoueff was recommended to us and then he came on as the third person in the position.

Now, that has created a lot of additional mechanical problems.

Congressman MEEDS. It appears to me that you are going to have to really bend your oars to get caught up now with your time schedule and I note that, perhaps, your objectives are suffering a little.

As I see it, you kind of lowered your sights to the primary task and you are now looking at where alcohol and drug abuse should be in the structure of everything. I would hope you would be looking into what alcohol program ought to be. What problems of alcoholism are. What things have been done that affected them.

You know, it seems to me that your scope is too narrow now. Am I incorrect in this? Could you give me some assurance?

Mr. LaBoueff. Mr. Meeds, I would say that that particular thing has been addressed also. I may not have been able to put it specifically in the objectives but it certainly will be looked at. This whole time-frame and scope of work was based upon how much time we had left. We tried to pick realistic objectives and things that we could accomplish during that particular time and did the best job that we could on them, rather than a wide open approach where we would do a half-assed job on all of it.

Congressman Meeds. One final question and observation. You indicated that you would report, probably, that alcoholism ought to be in Indian Health Service. Well, what if the Task Force on Indian Health comes in with a report that there ought not to be any Indian Health Service, that it ought to be somewhere else in the tribes or somewhere? What happens then?

Mr. LaBoueff. From that particular standpoint, Mr. Meeds, I think that we would certainly coordinate our efforts with the Task Force on Indian Health Service. However, our first responsibility is to the people in alcoholism. If they feel that the programs are not responsive as they are now and think they would be better protected under the Indian Health Service, that would become a part of our recommendations. We are working very closely with the National Indian Board on Alcoholism and Drug Abuse and we are making them a part, a very close part on a consultation basis and reporting their recommendations as part of our recommendations, as if they were a representative elective body of Indian alcoholism programs.

Congressman Meeds. Let me illustrate that there must be coordination and the coordination between alcoholism and health ought to be as close or closer than anything else.

Thank you, Mr. Chairman.

Chairman Abourezk. Other questions?

Commissioner Dial. Mr. Chairman, I wonder if we could table this question of Mr. Moore until tomorrow? I believe this is something that Mr. Snake and the director will maybe need to talk about. If we are going to use this gentleman on a consulting basis, it would have to be understood that he is ready to go to work and make a great contribution in the way of catching up. And can they hire additional men?

Now, I only pose this as a question. I don't know, but I wonder if we should solve it right this second.

Chairman Abourezk. I don't think we can. I think it has effectively been tabled until Ernie Stevens can discuss it with Reuben. It is a serious question of whether he ought to be taken on as a consultant. If he is not able to serve as a member of a task force, I don't see any reason, myself, to let him serve as a consultant. But that is up to the Commission. It is not up to me. So I would just as soon table it until

Ernie can discuss this with Reuben in more specific detail. Then we will take up the proposal again if they want to raise it once more.

Other questions.

If none—Jake?

Commissioner WHITECROW. My concerns are running just about along the same lines as Congressman Meeds' concerns. We can't find much in your report that identifies and brings about any kind of a reflection that you are looking at the prevention and the causative factors in alcoholism.

Are you taking measures now to identify these and to make recommendations for prevention?

Mr. LABOUEFF. Yes, sir, that will become a part of the report if it is not already in it.

Commissioner WHITECROW. That is all I have, Mr. Chairman.

Chairman ABOUREZK. If no more questions, we want to thank you very much.

STATEMENT OF SAM DELORIA, CHAIRMAN, TASK FORCE NO. 3, ACCOMPANIED BY RAY GOETTING, MEMBER; AND RUDY RYSER, SPECIALIST

Chairman ABOUREZK. The next is Task Force No. 3—Federal Administration: Structure of Indian Affairs, Sam Deloria, chairman. Sam.

Do you want to introduce your people?

Mr. DELORIA. Yes; to the far right is Ray Goetting and Rudy Ryser is our specialist. Our report is due July 20.

Chairman ABOUREZK. And you won't have any trouble submitting the report?

Mr. DELORIA. None, whatsoever.

Chairman ABOUREZK. Now, you have outlined as the objective of your task force——

Mr. DELORIA. If you want a single objective, I guess the way to put it is we are to look at the total Federal delivery system of services to the Indian and Indian participation in that system.

Chairman ABOUREZK. Does that objective include taking a very good look at the Bureau of Indian Affairs and how it is structured and if it should remain in that same kind of structure?

Mr. DELORIA. That is our understanding. It would include that.

Chairman ABOUREZK. Sam, does it also include a very fundamental question in my view: Should the Bureau of Indian Affairs remain within the Department of Interior? Is that question being taken up?

Mr. DELORIA. We are addressing that; yes.

Chairman ABOUREZK. Does it also include HEW, HUD and so on, delivery of those?

Mr. DELORIA. All the domestic assistance agencies.

Chairman ABOUREZK. And whether they ought to be consolidated into one separate agency. How about trust authority? Have you looked into the relationship of what that might be vis-a-vis BIA and so on?

Mr. DELORIA. Yes; we are looking at the trust council proposal as one of the alternatives for dealing with the problem of conflict of interest and protection of resources.

Chairman Abourezk. Were any of you here during the discussion that I had with Wilbur Atcitty earlier?

I wonder if your task force has looked into, or have you addressed yourself to, that question of how delivery of Federal money can circumvent the will of the Indian people themselves by kind of centralizing the power of just a few people in the Indian tribe and taking away power from the great majority of people? Is that part of your study?

Mr. Deloria. I think you can say it is to the extent that we are looking into it and trying to develop some means of assessing the effectiveness of the Federal program and, also, it would be covered under that approach.

Also, it would be covered under our analysis of problems of the Bureau of Indian Affairs. It is fairly clear part of the problem of tribal government over the years has been kind of a heavyhanded control of the Bureau of Indian Affairs. Perhaps some more flexibility to change the form of government, without interference from the outside, might address some of the problems we are concerned about.

Just as a footnote to that, I would say that the problem that you pointed out is a serious problem probably with all forms of government, including the Federal Government and the State governments. I hope we can say this and that the Commission will look at this in perspective to the extent that oligarchies are to some extent, unfortunately, a natural result of many forms of government. I don't know that tribal governments should be held to higher standards in this regard than any other form of government.

Chairman Abourezk. I am wondering if it shouldn't be? The system of electing tribal leaders is something brand new to tribes. It was forced upon them back in the early part of this century. I don't say the tribes should be held in a higher standard, but shouldn't the Federal Government be held to a higher standard with respect to how they can distribute Federal moneys because a great many tribal people aren't accustomed to an electoral system.

Mr. Deloria. We will be getting at that and I think that is probably a better way of stating the issue. Despite some communication problems in the earlier discussion, I think the tribal government task force will be dealing with that issue as well. It does go to the issue of control by the Federal Government over the form of tribal government. I think that is certainly going to be part of our inquiry and, I assume, it will be part of the tribal government task force inquiry.

Chairman Abourezk. Other questions?

Congressman Meeds. Thank you, Mr. Chairman.

I want to preface my first question with a story about the chairman of the full committee of this committee here, the Senator from Washington State. When asked how much he carried a certain precinct he would reply "Approximately 76.356."

My question is how do you know that you have completed 40.85 percent, approximately, of your work thus far?

Mr. Deloria. That is a result of a compromise. I thought it was 40.84 and Ray thought it was 40.86.

Congressman Meeds. Then how did you arrive at the compromise?

Mr. Deloria. Perhaps Rudy could respond to that. I am not up on the arithmetic of that either.

Mr. Ryser. Thank you. I am glad you asked the question.

Congressman Meeds. We thought no one would ever ask.

Mr. Ryser. A lot of people have asked me that since it appeared in this report.

I assume you all have copies of the second quarterly report. If you do, could you refer to the back schedules that are on that report?

We have set out, I believe, a fairly detailed description of each of our subtasks and by so doing we attempted to give you an idea and certainly give ourselves an idea of the extent to which we have progressed on many of these or all these.

You will note, as these things are broken out in the top portion of say, for example, the specific studies that are marked Indian resource protection and administration of the trust, for example. There are four papers that are listed there, four nonnamed papers that we processed descriptions. The first four attempt to illustrate one whole paper that is being produced during the course of the task force's life.

We are producing one such paper for each of our primary areas of concern, but each paper is broken up into four steps. I think this has confused many people because they are assuming that maybe it all ought to be one solid line. But, in our plan of operation, we try to outline what the process is going to be in producing four papers that will ultimately end up, what we refer to, as the final report.

We operate from the view that from the outset we should begin writing the report rather than waiting until the last few months to write a report.

And we, furthermore, began with a notion that we were going to begin with general premises of problems or issues and become more specific as time moved along.

So, we have attempted to illustrate each one of those papers for one topic area and a particular timespan involved in defining when it will be completed.

Congressman Meeds. And this 40.85, then, is where you are? That timespan?

Mr. Ryser. This 40.84 is in reference to all of this.

The figure really attempts to suggest a composite of where we are in all of our study. Some of our studies will be just begun, for example. Many of them are already complete. But each of them contributes to one of the stages of developing the papers. And so, we had to come up with some way of evaluating our own progress and the way we did that was to composite our progress on each of these papers.

Congressman Meeds. Are you doing any substantial studies of HEW or other organizations? It appears to me that a very substantial majority of your effort is in BIA, which it probably should be, and other areas. But I don't see anything happening with regard to HEW and HUD, for example, which are very important.

Mr. Deloria. It is not accurate to say that a majority of our effort is in BIA. There is a focus on that because of the requirement in the act that a specific study be done, as I am sure you are familiar with.

However, there are a number of these other studies and papers that are being conducted that are listed on the chart that Rudy was talking about that do deal with, for example, a breaking down of the budget of the Federal domestic assistance agencies. I am doing a study of the eligibility of tribes for Federal programs outside of BIA and Indian

Health. So we are looking at the delivery system itself. How the programs are made available; if they are made available; how the budget is determined; how and if the tribes are involved in budget and policy and program planning for all of the agencies.

We are taking a horizontal cut on this because we are a horizontal program. So we are not necessarily doing the kind of study of HEW itself that, for example, the Health Task Force might be doing. We are looking at the system itself and as it applies to each agency, such as HUD and Labor and HEW.

Congressman MEEDS. Do you expect to arrive at some conclusion in your report as to what kind of delivery system the Federal Government should have in its relation to the Indian people?

Mr. DELORIA. The way things are shaping up, Congressman, I would say that we would probably arrive at some thorough discussions of a number of alternatives. There is a substantial division of opinion, not only within Indian country but within the task force itself concerning whether the Bureau of Indian Affairs or a single service delivery agency should relate to the tribes and no other agency. Or whether the Bureau of Indian Affairs or a successor agency should relate to the tribes and they should also have the opportunity to shop all over town with an Indian desk model or some other model.

Congressman MEEDS. And you are looking at those alternatives?

Mr. DELORIA. We are looking at both alternatives and a number of others.

Congressman MEEDS. Now, you were specifically required to do a management study of the BIA and that was, as I recall, a contract. Is that proceeding on schedule?

Mr. DELORIA. We have had a problem on that. I think part of that problem has been a communications problem.

This was presented to the Commission in Portland. Originally, we explored the possibility of letting a contract to a private consulting firm, but the cost of that and other factors, including the fact that a number of studies have been done using a single private consulting firm. We simply rejected that. We explained that to the Commission and we understood that the Commission approved our decision.

Congressman MEEDS. In Portland?

Mr. DELORIA. In Portland; yes.

The approach we decided to take alternatively was to do a number of studies of the Bureau of Indian Affairs—different aspects of it—and to focus one particular study using a combination of public and private resources as the act provides. Ray visited with Senator Bartlett at the suggestion of members of the Commission. Senator Bartlett talked to Ray about an approach that he had used when he was Governor of Oklahoma. We explored that approach, which involved the use of volunteer consultants from private industry, and our understanding, once again, was that in Portland it was approved although apparently there has been some confusion on that. That part of the total approach to the BIA is currently in abeyance and I would hope that we could get another decision, one way or another, on that from the Commission.

The approach involved voluntary consultants from private industry who are available, who have worked with this firm that Senator Bartlett talked about in the past studies of governmental problems, and who are currently available.

Where we got our conflict, I guess, was the question of having a luncheon during which we would explain to these volunteer people what it was that the Commission was doing and where they would fit into the picture so they would know whether they had something to contribute or not and they would be able to decide whether they were in or out.

Congressman MEEDS. Whether they were volunteers or not?

Mr. DELORIA. That is right. If they felt they had nothing to contribute to what we were doing, then, of course——

Congressman MEEDS. Was it necessary to have a luncheon to do this?

Mr. DELORIA. I guess it wasn't absolutely necessary. I quess this was the approach that the firm recommended, that there be a luncheon, and I don't know—maybe Ray can talk about——

Congressman MEEDS. It would not require any further expenditure of funds by the Commission?

Mr. GOETTING. No. Actually, the matter of a meeting was discussed on how to explain the type of work that we were doing, what sort of a project it was, and whether we needed two accountants, one data processing expert and this sort of thing—to explain the kind of positions, and what qualities were needed.

To the extent that they would like to see someone in a high level position, whether it be the chairman or the vice-chairman of our committee, or a member of our project, and an explanation on representation of the Commission. We felt like we should attend to that.

Congressman MEEDS. I hope that you will talk to us again, after this Commission meeting, so we can try and get this settled.

Do you feel that you are getting full cooperation and effort out of all the members of your task force?

Mr. DELORIA. Out of all of our members?

Congressman MEEDS. Yes.

Mr. DELORIA. Yes.

Congressman MEEDS. Is there any lack of time on any members part to help complete this task?

Mr. DELORIA. I don't think so. The record doesn't really reflect the time I have put in. I think everybody has been on me for the last 2 days about that. I have put in about 34 days that I didn't bill the Commission for because I didn't get around to it, so the record doesn't reflect the time that I put in. I will probably put in another 30 days that I won't bill the Commission for, but it is on related work.

Ray is always around and the only problem is keeping Ernie from putting him to work on core staff business. But I think Ray has put in a great deal of time on task force business and Mel has put in a great deal of time. I would say that we have no problems that one would not expect given the fact that some of us are part-time and we are scattered all over the country.

Commissioner BORBRIDGE. I noticed with reference to agency personnel interviews and following the first meeting, I think, with representatives of Interior's Solicitor's Office and Justice, that there has perhaps been a little misunderstanding about objectives and there would be further hearings. Do you think that has been pretty well smoothed out now?

Mr. DELORIA. No; it is not smoothed out at all. I think it is a very serious problem that the Commission should consider. The problem is there are some kinds of information and some kinds of discussion that we, as a task force, and I'm sure the other task forces would like to have with Federal officials just as kind of a background to see how they do the jobs and what they feel their problems are.

Evidently, there is some concern on the part of some of the executive agencies that this constitutes members of the executive branch giving informal testimony that hasn't been cleared by the Department. So there is some concern on that basis.

There was an attempt by our task force to set up a hearing but it simply didn't work out because we were shooting too high. It is just a matter of what information you are getting and who you are trying to get it from.

If the Commission had a hearing and called the Attorney General to testify at the hearing, the Attorney General simply would not be able to answer most of the questions that satisfy our needs, because everything you would ask him, he would say, gee, I don't know; I will have to go check on it. And that wouldn't be very productive for us. There has got to be a way worked out to get basic information from middle and lower level people about how they do their jobs and how they see their jobs and what their problems are and how they relate to the tribes and that is not coming very easily.

I think Rudy has some gloss to add to that.

Mr. RYSER. Actually, I think you dealt with the issue rather clearly. I am not sure I can adequately deal more with that.

Mr. DELORIA. That's my man.

Commissioner BORBRIDGE. It appears to be a very good team.

Congressman MEEDS. Other questions?

Commissioner BRUCE. Yes; I would like to ask a question.

Does this mean then that you have difficulty in getting information that you need?

Mr. DELORIA. Yes; it does.

Commissioner BRUCE. Can you be more specific?

Mr. DELORIA. That is somehing that I think Rudy should answer because he was the one that was thrown out of the office or whatever happened.

Mr. RYSER. For the record, I wasn't thrown out of the office.

The nature of the questions that we were asking—and here we are talking very specifically about the Indian section of the Land and Natural Resource Division of the Justice Department and in the office of the Solicitor of the Department of the Interior—the source of questions that we were asking were preparatory to what we wanted to have at the hearing originally in December and later on in January and now considered in March.

We were interested in knowing what the front line people in the agencies do and how they perceive what they do with respect to the issues. It is a key here, at least in our view, that we are talking about the front line people who are making day-to-day decisions and offering their judgment to policymakers.

In our explanation in the early months of the task force, in hearings conducted by the Congress and various committees of the Congress, we found that Congress was looking very often at the policymakers and asking questions of policymakers about things that they ultimately didn't know much about. The example that stands out as a glaring example in my mind is a series of questions asked during Senator Kennedy's hearings during 1971 where he asked one policymaker how the Department of the Interior happened to lose a case over a period of 18 years and why it hadn't been taken care of by the Department and his response was: I haven't the foggiest idea.

Well, that suggests to me that Congress is not being very well advised about how such things occur. And so, our focus became very clear that I am trying to find out how things occur within these agencies. The Department of Justice was extremely interested in our questions. We were interested in talking to subordinate personnel where they wanted us to talk to policymakers. We were very much interested in subordinate personnel.

Then it appeared we were going to get a great deal of positive support from the Justice Department in providing the subordinate personnel for interviews. We got hung up, as it turned out, on a very key issue that to this day is not resolved, and that is whether or not such interviews could take place in the Department without a supervisor overseeing the response of the underling.

Congressman MEEDS. If you will let me interrupt, Mr. Pike had the same problem with Mr. Kissinger.

Mr. RYSER. Unfortunately, we haven't had to deal with that problem. We had asserted, after a series of meetings and discussions with the Justice Department, that we would like very much for the interviews to be conducted without supervisory personnel overseeing the interviews, mainly because we weren't interested in dealing with policy but merely perceptions and we didn't want the interviews to be influenced, really, by supervisors or someone else who would say that is not the policy of the Department.

And, so, we have stopped those interviews until we can figure out a way that we can proceed.

In the Department of Interior, we got immediately very positive responses in the Solicitor's Office until one interviewer—after we asked this individual if they would object to participating in the hearings—interjected by saying there was a memorandum in the Department that probably prohibited him from providing testimony for a task force hearing.

Having asked the individual whether or not he could provide a copy to us just so we could help resolve the situation, he wasn't willing to offer it, but he was willing to say that we would probably have to subpena him and other people like him if we wanted to talk to him.

Well, that took me back to the Commission asking the question: "What do we do now?" I hope somebody has passed this on to the commissioners. If you haven't already seen this, I think you ought to see this. The memorandum to which this gentleman referred is now a public document, while it wasn't originally considered such. There is a memorandum. It was circulated and finalized by Secretary Kleppe on January 12. It was offered, I guess, on January 7, written by the Undersecretary which is entitled "Coordination and Accountability of Departmental Policy Pronouncements." It does seem to me that while it did not and does not at this point raise major difficulties for this task force, since we haven't had the opportunity really to test the extent to which it really affects our interviews and our contacts within the Department of Interior, it does raise, it seems to me, some questions of this Commission about future contacts because it does limit to some considerable extent the availability of people who can talk outside of the policy structure. Do you have a copy of this before you?

This is an issue we think the Commission ought to be dealing with because we find ourselves really between the Commission at this point and the Department of Interior. And we were advised to proceed in dealing with the subordinate personnel. We are finding that it may prove to be difficult in light of this memorandum.

Commissioner BRUCE. Mr. Chairman, this brings up, again, the point that we discussed this morning about the inability of securing information from Government agencies. While we were talking about HEW, a lot of this involves other agencies. From my own personal standpoint, we have been too patient. We have just let it go along so that people are now saying you don't have the ability—they have said it to our own people, they said it to us, they have said it to me. I think it is time that we take some action somewhere along the line to establish the fact that we do have the authority to do this instead of begging at somebody's door just to get in to ask a couple of questions.

I think it is serious.

Congressman MEEDS. I agree with the gentleman and what I would suggest is that one of the task forces which really needs some information for its scope of work and to complete its task, cause a situation to occur in which you make a bona fide attempt and receive a refusal and that the staff man of the task force advise the Commission and the task force members and we use our full power to obtain what is necessary to be obtained.

Commissioner BRUCE. I think you have it now, don't you?

Congressman MEEDS. We clearly have, under the law, the power of subpena.

Mr. DELORIA. I might make a suggestion. I think part of the problem is some of these reactions are taking place at a middle level or below the top. I would hope that there would be some way to smooth the way at the highest levels because if we need to ask the Commission for subpena or threaten to ask the Commission for subpena, I think we are going to get one page at a time and we simply don't have the time in the life of our task force.

I don't know about the others, but particularly for ours, what we need is free and open interaction to examine the informal policymaking process of the Government. And that is something you can't really get from a subpena. If we just reassure them that we are not headhunting; that we are looking at a process which is a process which seems to persist regardless of the administration or the people that are in it, it would just make things a lot easier for us.

Congressman MEEDS. Certainly. That is a preferable way of doing it, and if we can achieve cooperation that way, we should do so. But

I hope that we will get this matter resolved. If this is the proper task force, or some other one, and we get the situation resolved because we do need that cooperation. As you point out, Sam, it is a very short time in which to obtain it.

Mr. DELORIA. We only have 59.37 percent.

Congressman MEEDS. I didn't hear you, Sam.

Mr. DELORIA. Never mind.

Commissioner WHITECROW. Mr. Chairman, I have a question, please.

Referring to a letter dated December 15 from Chairman Deloria to our Chairman Abourezk in regard to a hearing that was going to be conducted on January 29 and 30, 1976, whereby you reflect here almost a who's who in the executive branch of the Government to be called for and to give witness.

I am wondering, inasmuch as this hearing did not materialize, what is the reason this hearing was not conducted? As it is very apparent now that we are having difficulty in getting information: Would it not now be appropriate to call these people for testimony so that all of their underlings will understand that this is a congressional Commission that has the authority to get the information? Perhaps this would be one vehicle that we could use.

At the time I read his letter I thought this is the greatest thing that we have ever had. We will make these people responsive. We will get them to be responsive. We will get them on the stand and then we can get to the nitty-gritty.

I just cannot understand why this hearing was not held. Can you give me some response?

Mr. DELORIA. I think, Commissioner Whitecrow, I would like Rudy to respond to that. But before he does, I will take the responsibility for the fact that that hearing was not held. In my opinion it was ill-advised to try to have a hearing at that point in the life of the task force summoning such a galaxy of stars because I think they would not have been responsive to the kinds of questions that we would have asked at that time.

I think the point we are raising, though, does get to the strategic question for the whole Commission and that is: At what point does the Commission move to call the stars in and say let's get with it? And will that help us to talk to the lower echelon people? It just may. But that is really a strategic decision that is out of our hands and into the hands of the Commission.

Rudy, could you explain what happened to that hearing?

Mr. RYSER. The hearing was postponed largely because of the advice, as I understand it, of the members of the Commission. And in part because of the advice of our chairman, because of his feelings.

And we were at that point told—or the indication was given—I don't know if there was any formal indication given to us—that the galaxy was simply too imposing and if you weren't prepared to deal with this group, then you had better not deal with them.

In line with that, and discussing it among ourselves, that probably was a desirable bit of advice. We had planned to use a lot of subordinate interviews to compare policy versus practice in the context of which the hearings would occur.

We were advised indirectly that we ought to pursue the subordinate personnel. And we said: All right, that is fine. Then the interviews that we are conducting will be pursuant to simply formalizing their responses to our informal interviews.

All I can say is we had operated on some misinformation, initially, because we didn't have it clear in our minds whether or not the Commission could or should call such a hearing or whether we could or should call such a hearing. There was an attempt to get some clarification early on before the first attempt at the hearing. Insofar as I am concerned, we didn't get a positive peer response from the Commission who can or should call such a hearing. You received this letter merely because of guidelines that I had read from the manual that we are using that suggested that Commissioners and task force members all ought to be informed prior to any hearing of our intent and the people that we would like to deal with.

There were no formal responses from the Commission, as far as I can tell, about this hearing. And so lacking that, and in our own judgment, be willing to go ahead with the subordinate personnel evaluations, we simply canceled it.

Commissioner WHITECROW. OK, Rudy, do you feel that a hearing such as this, with this who's who list of executive personnel coming in to respond to this Commission: Do you feel that this is an absolute necessity for us to proceed inasmuch as we only have about 5½ or 6 months left to go?

Mr. RYSER. My own opinion, Commissioner, is that this task force really requires a clear indication of how the policies are applied and what perceptions of the policymakers are versus the subordinate personnel who carry them out. I think the best way of approaching that is in the form of a hearing, although we are open for any other kind of suggestion. I think the galaxy that we have here should be held responsible for the kinds of issues that we are getting from the subordinate personnel interviews.

Commissioner WHITECROW. May I ask the rest of the task force personnel here: Do you feel, by a show of hands, that a hearing such as this would be necessary?

VOICE. There are two issues. Whether the hearing itself is necessary and if that is affirmative, when should it be held.

Commissioner WHITECROW. Yes. I would like to have, No. 1: Is a hearing necessary?

OK. No. 2: Should it be held as soon as possible? By show of hands, please. Yes or no. Should it be held in a schedule 60 days from now to give you sufficient time to prepare?

VOICE. Could you look at the master schedule and see how many hearings are already scheduled in the District of Columbia?

Commissioner WHITECROW. There is a lot, I know. There are many hearings scheduled. Would it not be possible, then, for you to invite these personnel to appear at some of these scheduled hearings? Perhaps not all of them simultaneously, but would it not be possible and feasible to get this galaxy of personnel at some of these hearings that are being conducted by some of the task forces?

Do you say yes or no? Yes? You want these people to appear. No? You do not want them to appear.

VOICE. At a Commission hearing?

Commissioner WHITECROW. At a Commission or a task force hearing, either/or.

Congressman MEEDS. Would the gentleman yield for just a moment?

Commissioner WHITECROW. I yield.

Congressman MEEDS. Could I ask that we try to settle the thing amiably first? That we not throw the atom bomb as the first shot out of the box; that we kind of follow Sam's suggestion and see if we can work it out peacefully first? And then, if we cannot, and we must have confrontation, then we do it that way.

Would that be more acceptable than just throwing out the bomb right away? I have no question that we must assert our authority. But the question is, as Sam points out, to assert your authority and find yourself 5 months later with having to subpena everything you ever get. Maybe we ought to try to get some cooperation voluntarily.

Mr. RYSER. Congressman Meeds, might I make a comment here?

Congressman MEEDS. Certainly.

Mr. RYSER. Sir, it seems to me that there are three such hearings contemplated by various task forces here in Washington, D.C. We have revised our view of what kind of hearing ought to be held, say, in March. As a result of some of the preliminary interviews with subordinate personnel, there is a strong feeling that we perhaps ought to initiate our first hearing dealing with them. It is yet unclear as to whether or not we can get some people.

But following that, we can have the kind of hearings that you have just described. There are two hearings, I believe, at a later date proposed by Task Forces Four and One—I think that is the case in May. We propose to hold a hearing of this sort in March but not with the galaxy of many that we thought.

Congressman MEEDS. We can all get our jollies and go subpena the President, or whomever, and get him up to testify. But the question is: How effective are we going to be in getting our work done? I think you know you are dealing in an area right now in which there is a very substantial question. I wasn't being facetious when I said that this is what Otis Pike had tried to get from Mr. Kissinger. And as you know, there is a serious question that you can demand this kind of information from the administration. I don't suggest that we start out by confrontation.

I think, as Mr. Deloria points out, if we show them we are not headhunting, but we are trying to get some information on a voluntary basis to make some decisions, I think we are going to be a lot more successful than we are in simply trying to exert raw power and call these people up and provoke confrontation.

Commissioner WHITECROW. If I may I would like to express my thoughts on this. Inasmuch as we did begin negotiations on June 19, 1975, requesting information from HEW and still to this date have not received the information that we need, I don't think that we are immediately moving into the realm of confrontation immediately.

I think we have just a short period of time to complete this job. I am fearful that unless we do take some measures and, certainly we are not headhunting, but we do want these people, particularly in the secondary executive level, to understand that when our task forces request certain data and information, it certainly is going to be held in confidentiality and also it will be treated with the very greatest of respect.

I don't believe that we are headhunting. I don't believe that we are asking too much. And I don't feel that these particular people should be exempt from appearing before a Commission of this nature.

Mr. Deloria. Perhaps there is another issue involved here, and it may be resolved partly by posing to each task force and asking for a written response as to how each task force would utilize a hearing involving people at the secretarial level within the next 60 days. Because I think one of the issues we are concerned about is we want people in the executive branch to know that despite what we may look like, we are not just a bunch of clowns running around town asking questions. And we do have the support of this Commission.

That should be clear and I think that can be stated without getting into a grave constitutional confrontation.

I also believe that if a serious hearing were held by the Commission with the participation of the task forces requesting information from people at the secretarial level, that may tend to have a vacuum effect and bring a lot of information out that is not forthcoming at the level that we are trying to communicate now.

But I agree that we should not have a hearing at the secretarial level just to show that we can do it. I think it can be done if each task force responds saying how they would deal with such a thing.

Commissioner Whitecrow. I agree with you, Sam. I don't think we ought to try and flex our muscles either unless it is absolutely necessary. I, for one, like to get along with people if it is at all possible.

However, inasmuch as we are on such a very short timeframe and inasmuch as it has been my experience in the past dealing with secretarial level executives, these personnel are the ones that find it very hard to locate hideouts. These people hide out and they will refrain from answering any direct question. They will withhold information as long as possible, as long as they feel it could be, perhaps, detrimental to them personally.

And from that standpoint, I don't feel that this Commission needs to take a back seat to any one individual.

Personality is here—as I have said before—that personality is not the question. It is the issue that is involved.

Mr. Goetting. Mr. Chairman, this morning when we were talking about this same subject, Congressman Yates indicated that he would be glad to use the provisions of his office to make appointments for people.

I am wondering if this wouldn't be the support from the Commission that we might expect or might be more fruitful if, for instance, the congressional members would call and say we are having some problems and this is our mandate by the Congress and give us this support. Apparently the correspondence has not done it. We have three particular studies on budgeting, governmentwide, on contracting and Indian preference and so on and contracting for services of Indian tribes and this sort of thing that we are not really getting a response from in terms of correspondence and writing and questions. These are really being followed-up. But if we had appointments and if we could get the support of the congressional members of the Commission, in particular, and as Congressman Yates suggested this morning to the Education Task Force, I believe it was, that if they needed some help he felt he could provide it.

Perhaps that is the first step. I don't know.

Congressman MEEDS. I think it is possible to try that, but I think we are going to have to do something a little more formal than that. Perhaps a meeting and a resolution of the Commission with instructions for delivery to the secretarys and then call, following-up, and then perhaps something even more drastic than that if it doesn't work because obviously we have to get on this.

This is the first time that I have been informed of any problem of this nature.

Further questions?

Very well; thank you, gentlemen.

Mr. DELORIA. Congressman, before we leave, I would like to invite any of the members of the Commission who have any questions about what we are doing or feelings that we don't know what we are doing or any other comments, to get in touch with us directly. We will be glad to answer any questions and provide any information that is necessary so that we can complete our work.

Congressman MEEDS. Thank you.

STATEMENT OF PETER MacDONALD, CHAIRMAN, TASK FORCE NO. 7, ACCOMPANIED BY LORRAINE RUFFING, TASK FORCE SPECIALIST, AND ANDY ANDERSON, CONSULTANT

Congressman MEEDS. Task Force No. 7—Reservation and Resource Development and Protection.

Please proceed, Mr. Chairman.

Mr. MACDONALD. Mr. Chairman, members of the Commission, I have here with me task force specialist Lorraine Ruffing and also a consultant, Mr. Andy Anderson.

First, let me give you a brief rundown on what we are doing and where we are now and then we can ask questions.

First, as you know, an audit report is due to the Commission on August 16, 1976, and our goal is to look into resource development and protection and just recently we were also asked to look into housing and manpower. This was brought into focus in early January. So those are our goals and objectives—to look into these four areas, where there is no protection and what kind of protection there is provided for the resources of American Indians on reservations and, also, the kind of resource development that is taking place. Constraints to resource development—why it is happening. These are the kinds of directions that we are taking.

So far we are trying to review Federal policy with respect to the assignment that we have and we will likewise do this with housing and manpower.

Now, the method of approach that we have decided for ourselves as outlined in the plan of operation is that, first, we want to find out what the Federal policies and regulations are with respect to resource development and protection.

Second, to check the performance or lack of performance at the local level: What their needs are; what their views are from the tribal people at the local level; what they believe are constraints to their development; what they believe should be done in order to have the kind of development they have envisioned for the tribe; and also the kind of protection that they expect.

So, we are going to review the Federal Government's position on resource development and protection and review the existing situation on reservations as the local Indian people see it.

Third, we are going to bring the two together and evaluate it to see how the policy of the Federal Government really works at the local level. And, then, from that we see that we may have to do some followup work in order to crosscheck the two major areas of our review.

And from that we will make our report to the Commission. We knew at the time we started out we had a time problem and also a funding problem. Because to do the kind of job that needed to be done, it certainly would require as much money that can be put into it and a lot of time. But since we don't have that, we more or less embark upon a system that we thought would be adequate for the time we had and the money we had.

We were 45 days late getting started. We did not get our specialist until around October 1 and so that made us get behind our work. But the process that we have set for ourselves, as I said, was to do these two major things and the third would be to evaluate it.

We have, to date, visited 24 tribes. We had intended using some scientific, random sampling method generated by Dr. Ruffing. We selected 32 tribes to visit.

Now, these are not selected by me or by her, but more or less a method that I will leave to her to explain how this was done.

But supposingly this would have given us the largest tribes with resources and the medium sized tribes with resources and the small tribes with resources, and the same way with large tribes with no resources and on down. So that there is a mix from these 32 tribes that would give us a cross section of the Indian tribes across the country and from this we can get sufficient data to perform our study. We are going to work in the local level area. We are going to get into some special studies that have been made and review these with the tribe and include that in our work.

Third, to meet with tribal organizations, groups throughout the country, throughout our period of gathering data and get their input. So those are the manners in which we set about our work. As of to date, as I said, we have visited 24 tribes of the 32 intended to visit by a scientific method and, of course, we are including other tribes that have been suggested in Ernie's letter that we ought to give some attention to. We agreed that there are tribes that have economic development or resource development programs that are successful and we are to look at those. And there are tribes that very obviously do not have successes and we should look at those in a special study, and we will do that. We have several questionnaires which address themselves to these various areas of questions and concerns that we have set out for ourselves.

We have sent out questionnaires to all tribes—over 200 tribes in the United States—and to ask them to complete. But we are only going to sit down with about 35 tribes and go over these questionnaires completely because just the questionnaire itself is not sufficient. It is just a way of getting started. A specialist, or someone from the task force, has to sit down and go over the questionnaire with the tribal group or organization, tribal council or chairman, and expand on the answers that they have given.

So, from this, we can gather additional data.

Now, from the beginning—becuse most of the time that was spent from October until now had been planning and getting the necessary questionnaire and other administrative work in order. We were not able to spend as much money as we could. We didn't have enough personnel onboard because during that time we didn't have a need for it. We just had one person full-time up until 2 months back. Then we had four. As of last week, we asked other people to join us, so now we have 11 people on the job now to help us move into this area of gathering data and interviewing both the Federal Government and the people at the local level and the special organization groups.

So with that, we figure we are about 32 percent complete toward the project that we have set for ourselves. We have expended about 30 percent of the funds, but the additional thing we would want to do and would like to do—it may end up that our expenditures may run short of the time that we have or we may have to cut back and shorten some of the things that we wanted to do—but that is a capsule view of what we are doing. And, again, we said the money and time are the things we work within.

I know it is very difficult to get any more money. I am not asking for any more money. I am going to deal with whatever money you allow us to have, but I am just going to say this: As a chairman of the tribe and. I am sure, as with Congressmen likewise, when you get a consultant the first thing he tells you is I don't care how much money you give me and how much time you give me, you are going to get whatever amount of money you want to spend on this and the time that you want me to spend on it. So that is the way it is.

For instance, on just the Navajo reservation alone, we are going to—actually, we did appropriate already $200,000 to do a management study of our six enterprises. And the guy said I can't give you anything—we said we wanted a complete review, the salary scale and all these other things—and if you want all of that, give me $200,000 more and another 6 months. Now, we don't have that. We just have a 6-month period and if that is the case, you are just going to get this. And if you want some more data, then you give us more money.

So, what I am saying is I am not worried about meeting the deadline. You are just going to get out of us within that time and the money that you have.

Congressman Meeds. Are you convinced, Peter, that would be a relatively workmanlike product?

Mr. MacDonald. Yes, definitely.

Congressman Meeds. As you have probably observed, I am concerned about the intertask force cooperation and coordination and it seems to me that your task force is one that ought to be coordinating and cooperating with almost all of the others.

What kind of system have you set up within your task force for cooperation and coordination with what you are doing with other task forces, if any?

Mr. MacDonald. Yes; I agree with you that there has to be coordination. We, on our own, try to coordinate by telephone and I find it to be very difficult since most of the chairmen of the task forces are busy and have other work besides being chairman of the task force. I leave this duty to the specialist and I think the specialist by telephone or by contact here in Washington can do a great deal more coordination.

So that is what we are doing now. The way I see coordination could be brought about is perhaps Ernie can get the task force chairmen together and kind of go over it in a half a day or full day and that way we have sort of a forced coordination because anytime you just have voluntary coordination it is very difficult to implement and time flies by real fast. If you leave a call for somebody to call you back, by the time that person calls back, you are out and your coordination is gone.

So, we do have problems with coordination, but I agree with you that there should be. As a matter of fact, I asked our specialist, since we got this housing assignment, to get together with other people. She has done that and made a coordination point with the Health Task Force to go over housing and they did a job with Task Force No. 6. And what they are going to do jointly, as specialists for the two task forces, has been outlined here.

Congressman Meeds. I rather had the impression from reading the notes which a staff person prepared with regard to your task force, that your scope was relatively limited and that you are spending an awful lot of time looking into policy of the Bureau and present development of reservations rather than taking a broad swing at what could be done.

Somebody mentioned here the Marshall plan for reservations and this is the kind of a concept that I had. I am wondering if, from the last time I looked into it very much, you have broadened your horizons in considering broad policy questions with regard to development of reservations. I know you can't lay out a mold and say all Indian reservations ought to be developed thus and so. That is impossible because they have different resources, different assets, and so on. But maybe a broad policy mold as to legislation appeal with reservation development and resource utilization.

Do you really feel your reach is exceeding your grasp here? Or do you think maybe you are a little too confined? Or is that one of those other prohibitions of time and money?

Mr. MacDonald. We could spend our money on a Marshall plan and it would be very fruitful. I would think. But we have the understanding, at least I have the understanding, that we are reviewing the policies of the Federal Government on how it works or doesn't work on the reservation at a local level.

Congressman Meeds. We are pretty sure it doesn't work, I take it. It is not working on the Navajo. You and I both know there are some things that could be done to help down there.

Mr. MacDonald. Definitely.

Congressman Meeds. I shouldn't think it would take very long to look at what the Federal policy is right now doing with regard to reservation development and resource utilization and say it is not working.

Mr. MacDonald. Perhaps I should get from you, then, a better direction because we could spend the rest of the time from here on out just doing this thing that I said—review the present policy, whether it is working or not working.

Yet, I know in back of my mind every tribal chairman, every person who ever works with the Indian knows that it doesn't work.

Now, we could forget about it in terms of what isn't working and why it isn't working and go into a positive approach and being to come up with what will work, which means that we are then at this point, we would be superimposing upon whatever marriage of Federal Government and policy as a new thing——

Congressman Meeds. That is the purpose of this whole exercise, Peter. That is the whole purpose of this exercise.

Mr. MacDonald. OK. Then we will have to shift. We will have to shift in that area and we will have to do a little different thing than what we are doing now because our direction that we took was the direction that I just said, was just plain and simple, to review what is there and whether it is working or not working and evaluate from there and see if we can change the existing laws—how we can change it to make it work.

But we are not going to put too much heavy emphasis on that, but rather what is it that is going to work regardless of what exists now and that approach, of course, will require a different approach.

Congressman Meeds. Well, I don't know that it is totally different. What you are doing is essential to a determination of the end product of what is the best, but that was my fear that you were mired down with the question of what are they doing now.

And, as I say, I don't think you have to spend much time to determine that what they are doing now is not working.

Now, the question is: How do you use that information to determine what will work? If it takes a new direction on your part, then it seems to me you had better shift gears. As one Commissioner saying this—I don't know how the rest of the Commission feels, but the purpose of this whole Commission was to determine what had gone wrong in the past and how to correct it.

In kind of apportioning the time, it would seem to me it would take about one-third of the time to find out what had gone wrong and two-thirds of the time to figure out how to correct it.

Now, that is just kind of a horseback estimate there.

Other questions.

Commissioner Deer. Mr. Chairman, I notice that you are going to evaluate or try to investigate EDA, but I think one of the problems is there is a difficulty of tribes getting financing not only from EDA but private institutions and it seems to me that this whole area of banking and credit needs to be investigated, perhaps not by your task force, perhaps by another one. But tribes should have procedures to try and develop the resources and expand and that is one of the big problems.

It would seem to me that no matter what you do, you have to touch and analyze this whole area of finances.

Mr. MacDonald. Definitely. Because in a lot of these things the tribe has already made known to us that the reason for EDA is that they have made some studies in that same area. What we are finding out as we begin to get some questionnaires in, which is certainly true with the Navajo, not that I was ignorant about it, but the question of what you have put your finger on is on Indian reservations. The present lending institution just cannot make an investment for resource development or economic development programs.

Consequently, the development on reservations is, in many cases very slow.

2. If there is going to be development, it is all Federal infused money and the private sector doesn't allow it to take place. Everything is federally provided and the chance for private sector to develop is being shortcut by the lack of capital investment from outside this question.

Certainly, we have a man that is assigned to look into that question by itself.

Congressman Meeds. Other questions.

Commissioner Dial. Mr. MacDonald, you presented a problem—the credibility of the Commission as you traveled here and there among the tribes.

Mr. MacDonald. I didn't hear all of the question.

Commissioner Dial. I believe you stated in your report that you find a lack of credibility existing among the American Indian Policy Review Commission. I was wondering what you would propose in the way of a remedy to this situation or do you not find it? For the record, would you state your views?

Mr. MacDonald. Well, at this point in time we are halfway through this project now. I don't think that this is a problem anymore, a problem that we should be concerned about and try to do something because in the early part of the game, last summer and last fall, we experienced it. We kept getting cancellations for our scheduled visits. But I think at this stage all of the tribes that we wanted to visit at least rescheduled and we are going to go back in and I think they have decided that this is an ongoing thing and there is no need to fight it and try to get the best out of it. And I think that has changed. So I don't think we need to do anymore other than to continue the work that we have and finish the job.

Commissioner Dial. Very good. Thank you.

Commissioner Bruce. I have got to talk about this housing situation, Peter.

You are doing something about it and I notice in the report that there are a number of statements made. One was that there was going to be another study of the Indian housing situation. Is that right?

Mr. MacDonald. The word study is really not the right nomenclature. It is a bringing together of all the studies, or whatever it is that has been made, and we will review that and make our report based on those reviews and recommendations. We are not going to send another person in to make another study. We agreed there must have been 10 or 15 studies by HUD and other agencies on housing alone which we are going to bring in collectively. And, at least, give the Commission a status and also a recommendation.

Commissioner Bruce. I just got this report which says something better—housing analysis—and the chairman said that we have enough studies on the shelves gathering dust.

In your report there are some statements that are made—sort of shocking to me having been in housing and then in the Bureau—in which all funds for Indian housing should be removed from HUD and funneled through the HIP program of the BIA. Those used to raise red flags and green flags when I was with the BIA. And, also, I think there is still a feeling on the part of HUD that they should have it all.

Now, are you looking into that rather than saying that all the funds should go to HUD and that's it?

Ms. Ruffing. What you read there was a quote from the Minnesota Chippewas when we had an intertribal meeting with them. This is their feeling. What we are doing is we go through our schedule, our site visits, our meetings, and our hearings. We are asking people's opinions and we are recording their conditions and that is what we find among Indian people. They have various solutions to the housing program. So when we do our analysis of the previous recommendations that have been made, we are going to try to evaluate them in the light of what Indian people have said.

Mr. MacDonald. Commissioner Bruce, that is not the position of the task force.

Commissioner Bruce. I hope not.

Mr. MacDonald. We are just trying to give you some of the kinds of suggestions that people are coming up with. We are not saying we agree with them or endorse them. We are just trying to give you the views of some of the people.

Now we are going to bring this in and make our own recommendation and final report.

Commissioner Bruce. OK. I guess I am satisfied with the housing: What you are doing in that?

Are you putting somebody on specially? Or who is going to do this report?

Ms. Ruffing. Right now we have to get together with Task Force No. 6 and Task Force No. 7 and see what we have in our budget and how many days we can afford to do this analysis and we still have yet to decide on who the person will be. But it will be somebody who has been in the housing area, who is familiar with the problem, who can evaluate these studies, and work on the material that we have gathered in our site visits. Between Task Force No. 6 and No. 7, we are making over 62 site visits to Indian tribes. So all this material will have to be coordinated.

Commissioner Bruce. Secretary Hill wants to build 10,000 houses this year.

Mr. MacDonald. We need twice that much on Indian reservations.

Commissioner Bruce. One last thing outside of housing. I am always concerned about the fact that wherever we have industry, mostly in reservations where it is owned and controlled quite often by non-Indian money. Are you looking into how that can be changed? You ought to be in a good spot to do that, Pete, with the Navajos.

Mr. MacDonald. Yes. We get into the whole financial aspect of it and it includes that. Now, I am not talking as a task force man, but we want Navajos to own or to control, whether it is tribal government or individual. But the level of financing that is required to do that, even for the tribe, is quite an undertaking—$1 million, $2 million working capital and what have you, and that would reduce the scale down to whatever the enterprise might be.

So, from a financial analysis, we can focus on those particular situations you are talking about and we have looked into that definitely.

Commissioner Bruce. And I hope you think, maybe, that since you are director of the American Indian Bank you can be helpful.

Mr. MacDonald. Yes, if we ever get control of the currency, we might make some loans. But right now it is like any other bank, it is not a development bank.

We brought about the American Indian Bank to be sort of a development bank, but we are just like any other bank except we are nationwide and we are still controlled by the same banking regulations that you have in North Dakota or South Dakota.

Commissioner Whitecrow. Pete, I would like to ask you a question: In your report on page 6, you comment that in almost every site visit someone remarks that all the congressional members are from the West and they will not advocate legislation which might adversely affect on their non-Indian constituents. And also, a statement following that, since Indian people are skeptical about the effectiveness of the Commission, they are reluctant to cooperate and release confidential information for fear it will be used against them.

I don't think I have a question in this regard. I would just like to make a statement concerning this.

1. I feel that this is a new day dawning in the area of Indian affairs. The Congress of the United States has certainly turned 180 degrees in regard to serious consideration and serious thought about the American Indians and the relationships that they have. And I can also state this: That from the experience that we have had thus far, the relationships that we have had with the elected Members of Congress serving on this Commission and with the relationships that the Indians have that are also on the Commission, I think we can pretty well rest assured that we have the support of all the elected Members of Congress that serve on this Commission.

I don't think they would support anything that might be totally outlandish, but anything that is feasible, I feel certain would receive the support.

However, I think we also need to tell the Indian population—the thousands of Indians that we have out there today that still are not even aware that this Commission is in existence, and, also, those that are not even aware that the Indian Self-Determination Act has ever been passed.

I think we need to tell those folks. I think we need to tell them at every opportunity that the Government has decided to take a new look and that they have the support, at least, of this Commission and that the Commission will be making recommendations based upon the findings of your task force and all of the other task forces. And certainly, we think you need to make recommendations on how these things could improve. A Marshall plan, as an example, might be the ultimate answer in bringing about total reservation development.

I would like to also ask you not only to consider just reservation development, but all types of Federal trust land in that relationship.

Enough of that. I don't want to whip a dead horse any longer because we have already covered that a little earlier.

I would also like to comment that on page 9 of your report: It states here that you requested a thorough study of EDA's role in promoting reservation development.

That, in regard to the comments made on page 11, whereby you show a continued erosion of the Indian land base. Those two comments there certainly have a great deal of relationship. I would certainly like to see a report coming out of your task force that states how perhaps some legislative action might be brought about to provide funds either through EDA or some other Federal source that would allow a turn around in the depletion of the Indian land base. Allowing for perhaps tribes to begin purchasing back those properties, those individual owned properties, undivided interest of tribal owned trust lands, some system whereby tribes could begin building their land base once again.

Also, I would hope that your task force would coordinate with Task Force No. 3 the structure of the Bureau of Indian Affairs and certainly make every effort to make recommendations that abstracts of title of individually owned trust land certainly be brought up-to-date.

I know in Oklahoma, as an example, we have thousands of acres of individually owned trust land where the abstracts of title have never been brought up-to-date. The undivided interests that are reflected still are just reflected on the roles as undivided interest. And no real severe accountability has ever been developed on this.

That, in itself, certainly should be a point of concern for us in this regard.

I would also like to comment on your statement in your report, page 13, subparagraph 4, "Control over Indian income generated on Indian land". You state there is no consistent or logical rule for which funds are deposited in the U.S. Treasury or in the tribal treasury. And some agencies' income earned from business leases goes into the tribal treasury, while timber stumpage goes into the treasury.

In regard to that, I would like to ask you as one member of this Commission to give it some very serious thought as to how your task force could recommend the establishment of a financial institution that would allow total reservation development to come about.

I think at this particular point in history, we have the opportunity now of bringing about a recommendation that would provide this kind of establishment. If it takes Federal legislation to bring it about, then perhaps it needs to be brought about and the support of the people who generate it to be sure that it does become effective.

If we can do this, then we can provide for this necessary reservation and off-reservation development of Indian tribes.

Mr. MacDonald. I think that would be one of the central themes of our report to the Commission. When you are talking about reservation resource development and protection, the potential and possibilities as enumerated and have been suggested by tribes many times over and over. The constraint—about 50 percent of the constraint is funding for the kind of development that the Indian people envision.

Therefore, one of the centerpieces of our report is going to have to be the financing of these resources and the protection. It takes money, too. I would like to ask Mr. Anderson to respond.

Mr. Anderson. Thank you, Peter. I would like to go back to the Congressman's comment about whether or not the task force was looking at too narrow a focus.

I think what you see is the position of the task force at this point in its life. They are at a point of collecting a data base to look at the big picture. They ask questions that of necessity must be very specific to be correlated into substantial points of view.

At the same time that this is going on, of course, in June we generally try to contemplate what the results are and the natural optimistic point of view. So some of us have spent a fair amount of time looking at the big picture and we have thought about and considered many of the things which you mentioned, Commissioner. I have a draft paper which takes in most of these considerations. We do have some ideas on how the capital market may be changed so that Indian people—Indian tribes or individuals—can have access to capital markets, so that developments can take place.

It also envisions ways in which markets might become available to Indian enterprises. It also contemplates a way of transnational, trans-Indian enterprises from one reservation to another or reservation people and nonreservation people participating in a network of businesses and that sort of thing.

So, as the task force collects its information and as the data is collated, and the strength or weakness of points of view are demonstrated by this collection of data, then we will define it in the report and it will be a separate document probably which you will receive—maybe in the next 60 days—as an ongoing piece of information which you can comment on and help us direct our eventual documentation to.

Commissioner Whitecrow. I have one more comment, sir.

I would like to ask you if you would also look into the delivery of funds delivered to the Indian planning site. I have a great many people approaching me and bombarding me with questions in regard to why haven't these moneys been made available or those little moneys that have been made available are just too hard to achieve, too hard to bring about, too much red tape has been imposed as a result of regulations.

I would like to ask you if you would please do a study on this.

Mr. MacDonald. Yes, sir. As a matter of fact, it is probably one of those things that the chairman talked about in his study. It is a very simple fact that the maximum grant is $50,000 and on any Indian reservation it takes $50,000 to put a sewer, lagoon, a water system in and you still don't have the ability to state your business with. So, it is very hard unless you are going to put up a building without electricity and water—you may do that with $50,000. But there is not much you can do with the $50,000 grant and if 1,000 people want to do a business and only 6 can get $50,000 grants, then that is not very much.

So that is why the visibility isn't there. Although in areas where it fits, you fit it in. But for overall impact, it is not going to do that unless something is changed.

Commissioner BORBRIDGE. By his letter of January 23, the staff director, Ernie Stevens, had expressed some concerns to you about both progress and focus.

My impression after listening to your presentation today is that there has been considerable refocus. In your opinion, do you feel that the task force is now in a position to say it has largely, if not entirely, met the concerns of the Commission?

Mr. MACDONALD. Yes, I guess what really took place there is we more or less approached the problem as we saw it and not until Ernie had a review of our reports, and what have you, was he able to give us an input. But, it was welcome and I think it was a very good idea to kick some behind a little bit and to make sure that we not only moved at the pace we should be moving, but to make sure that we all are focusing on the right thing. That is why the closer the communication, the better it is, and we intend to do that from here on out.

As a matter of fact, I think I should have more meetings with Ernie in order to get this thing rolling. But you are correct. Since I got the letter, I canceled some of my appointments and I began to get the ball rolling. Since last week, we hired six more people to address the needs that Ernie addressed in his letter. So, we are doing that.

Commissioner BORBRIDGE. I want to express my approval of that, because I think it is possible to find people who might be able to fill the role of historians and we badly need them. But I think those who are engaged in the actual dynamics of the give and take, as you have on the legislative forum, you will find those talents misplaced unless you come to us with some good hard recommendations. I am pleased to see that is where you are heading, and why my one last question, perhaps, might be directed to Mr. Anderson.

I noticed a comment here that there is an effort to contact the Office of Technology and Assessment to see if they have analyzed the Alaskan Native Claim Settlement Act. Was this done and have they?

Mr. ANDERSON. Yes.

Ms. RUFFING. Yes, I called the office and, no, they have not analyzed the Alaskan Native Claim Settlement Act, so that burden will fall on Task Force No. 7 and we are going to shift that to Andy Anderson.

And, you will notice in our quarterly—he is responsible— as a special report we are going to have on Alaska, because I feel the problem is an associate one, and Mr. Anderson is always in charge of the site visits in Alaska. Both he, Mr. Smith, and myself will be visiting three different regional corporations in Alaska. We were in Alaska but we were not able to complete our visit there. I will give the microphone to Mr. Anderson.

Commissioner BORBRIDGE. I was wondering if just OTA had not responded because they did not understand it.

Ms. RUFFING. Maybe Mr. Hall better respond.

Mr. HALL. With respect to that, my understanding is that that office does have such a study planned.

Commissioner BORBRIDGE. I see.

Mr. HALL. What we were told is that they did not have funding for it, but they expected to get it underway shortly.

Now, I don't know for sure what that means—what shortly is.

Commissioner **Borbridge.** I wonder if I might request through the chair that the director might advise me as to this particular situation.

Congressman **Meeds.** Would you advise the director when this is complete?

Ms. **Ruffing.** I am afraid that study is not going to be available in time for Task Force No. 7 to use it. So we are going to have to go ahead, with your help, to come to some solution on our own.

Commissioner **Borbridge.** I see. I know that these contacts have been made already, but in addition to the corporations, the Alaska federation and the board of directors met and at its last meeting agreed that that corporation would have a contact individual and that person should be elicited for their participation in the study. This is to advise you, as I am sure you are aware, there are certain materials already available. I am sure you have taken a look at what both organizations have done. I know and appreciate what is going to be a very complex undertaking.

Mr. **Anderson.** Commissioner Borbridge, since I have been asked to focus on Alaska, I would like to be sure that you understand that I need your help desperately to get this job done. Any information you have or any names you can give me or directions you can point me to will be extremely valuable. I won't take any time here now, but somewhere along the line I would really like to talk with you in detail and get the help that I desperately need.

Commissioner **Borbridge.** You may consider it available.

Commissioner **Bruce.** Peter, I understand you are conducting some site visits. How are you doing these? Are these interviews, hearings, or what?

I ask this question because I am wondering what kind of responses—if you have had these—are coming from the Indian people themselves?

Mr. **MacDonald.** These are interviews. They are not hearings. What we do is we send out questionnaires way ahead of time. We ask them to get as much data and complete the questionnaire as much as they can and when we arrive on the site, then we will talk to the tribal chairman or the planning group or the council, and have a day or two with them to go over the questionnaire and expand on it. In other words, this is where we take notes which is not in the questionnaire.

One of the questions is: "Do you think housing is adequate on your reservation." He said, no. OK, then the questioning starts: Why no? If yes, why yes? That is the only way.

Otherwise the questions would become too brief. We have to supplement the questions with an onsite interview to get their feelings, their recommendations, and views on why this particular situation exists.

Commissioner **Bruce.** Would these include tribal councils, also?

Mr. **MacDonald.** Yes. For instance, on the Navajo they don't want just an interview with me. They don't trust me, I guess, as a chairman. They want the whole interview to take place with the 74 council members sitting with me and in some cases they ask that. In some cases they allow a planning group or a chairman to give the input.

In other cases they request that the council be given the interview and they want to make their recommendations.

Congressman **Meeds.** Thank you very much, Peter, and members of your task force and staff for your report.

Mr. MacDonald. Again, I want to thank you for this time because it is very much needed on our part. We wanted to hear from you about where we are. We need to emphasize our work so that what we do will be in accordance with what you have envisioned. I think this is a very worthwhile meeting for us and hopefully we can have another one before the time is up.

Congressman Meeds. Thank you very much.

Mr. MacDonald. Thank you, Mr. Chairman.

STATEMENT OF PETER TAYLOR, CHAIRMAN, TASK FORCE NO. 9

Congressman Meeds. Task Force No. 9.

Mr. Taylor. Mr. Chairman, Commissioners, I would like to state that the specialist for our task force is out of town today attending an intertribal meeting in the State of Wisconsin, so I am appearing here alone today.

My name is Peter Taylor and I am the chairman of this task force. I must say I feel—after listening to all this testimony today—as if Task Force No. 9 is truly the cleanup task force. We are last on the agenda and our basic function is to come behind the task forces, and come behind history attempting to review Federal-Indian law.

We have focused our attention principally on title 25 for the great majority of the statutes pertaining to Indian law.

Our function is to review the existing statutes and attempt to come up with a recommendation for codification into what they call positive law.

Our relationships to the various task forces raises questions as to the exact role of this task force. It cuts across every subject matter. It is principally dealing with technical aspects of the law. So we find ourselves in a position of, first of all, trying to set existing law down in a logical, comprehensible order, to recommend codification and this assumes you are not making recommendations for legislative changes.

It is not possible to go through these laws and not have an insight as to changes that should be recommended.

So, our approach is: To divide this code up into subject matter classification; just lay out new chapters; analyze the existing law that is here; and prepare a memorandum explaining what the law is, how it should be codified to the extent that is possible, and then have a followup memorandum making recommendations for changes where we think it would be in order.

As I say, we are not principally a factfinding task force. Therefore, we are, in terms of making recommendations or preparing this legislation, very dependent on coordinating with other task forces.

We have had a lot of discussion with them. I would expect that as their work progresses and as our work progresses, the amount of inter-task force contact will be increased substantially as this work progresses.

At this point, I would ask whether there are any questions.

Congressman Meeds. Again, from what my staff prepares for me, and reading your reports, and everything, it appears that you are pretty well on target. You have completed pretty much of the work that you have assigned yourself at this time. You did have a little problem with the difference of opinion with regard to whether your task force would be writing legislative recommendations in all revisions for all of the task forces.

Has that been resolved?

Mr. Taylor. I believe it has. I heard a comment here today from one of the Commissioners stressing the need for these task forces, conducting their individual studies, to try to prepare legislative recommendations.

This certainly fits in with the function of our task force as we see it. I think as they prepare recommendations, they would undoubtedly want to consult with us, particularly as to the existing state of the law as we have seen it.

We certainly don't hold ourselves aloof from them. We would expect to work with them. But I would think the principal burden of coming forward with affirmative recommendations woud lie with these other task forces that are actually gathering this information.

Congressman Meeds. Other questions.

Commissioner Bruce. May I ask a question?

Why you are devoting so much time to the revision of the Bureau of Indian Affairs' manual?

Mr. Taylor. We are not looking at it from a standpoint of revision, Commissioner Bruce. It is rather to determine policies or restrictions on delivery of services—this kind of thing, that may occur through the Bureau of Indian Affairs' manual. Rules that get written down that are followed by the administrators of these laws that are never published. So that a person goes in and applies for welfare, for example, and finds that he is being denied his benefits.

And here it is, this written policy set forth in the manual that hasn't been published in the Code of Federal Regulations. It should not have the force of law. And, in fact, the Ruiz decision dealt at some length on this problem. So, we are examining it: (1) for this type of problem—this lack of compliance with the Administrative Procedure Act; and (2) it is a part of the legislative review process. You look at a statute which, on the face of it, it appears to accomplish exactly what would appear to be needed.

I think an example of that is section 5 of the Indian Reorganization Act that authorizes the Secretary of Interior to acquire land for Indian tribes. It is a very broad statutory provision. And yet, we find in later years tribes asking special legislation authorizing the Secretary to take a very limited kind of a property into a trust status. And the immediate question is: Why must the tribe come in these later years, asking for this special legislation, when it appears that the law is already there?

You start looking at the regulations and you can't find an answer. But back in the Bureau of Indian Affairs' manual you may find an answer. In this case we actually found it in memoranda that didn't even appear in the manual. A memo that was written back in 1959 and a followup memo in 1960 that simply set forth no standards at all in terms of guidance other than the Secretary shouldn't take property into a trust status to help big shots dodge taxes. Those are quotes from the memo.

That was discovered at a conference at BIA. It was Kathryn Harris who asked and it was her question that brought this memo to light. But that illustrates the need for checking behind the statute itself, and getting back into the way they are actually being administered in order to determine what sort of problems there really may be.

Congressman MEEDS. Further questions?

Commissioner BORBRIDGE. Yes. I think you have largely answered the question I have. In addition to the consolidation and codification you are examining the implementation and the occasion of why this implementation may be inconsistent with law as written.

With respect to pulling together all this information: Are you encountering any particular, specific problems along the way?

Mr. TAYLOR. In terms of our contacts with the Federal administrative officials, we have not had any trouble at all. They may see us as being less controversial, as they do some of the task forces, plus I think many of these administrators are having to sit and work with these laws days in and day out and there are problems in them that bother them and they would like to see them cleaned up, too.

Commissioner BORBRIDGE. Thank you.

Congressman MEEDS. Further questions?

Commissioner DEER. Why do you feel that site visits and hearings are not advisable for your group?

Mr. TAYLOR. First of all, our task force doesn't have any real definition of subject matter that we are going into. We have always felt, from the very beginning, that we could hardly go into a hearing type of system and say, "Tell us what problems you have with Federal law."

As a hearing process, that really doesn't make sense. What we have done is send letters to all tribes—I know to all federally recognized tribes and I believe we sent letters to unrecognized and terminated tribes, as well.

Also, to all tribal attorneys that the Bureau of Indian Affairs has listed asking them to tell us of any problems they have had with either Federal statutes or Federal regulations in the past 2 years.

We don't want a major memorandum from them. All we need is a letter saying: "We have a problem here." This will tell us this is something we need to look at and we will make clear that they should feel free to write us every time a new thought occurs to them. So we are trying to get tribal input through that fashion.

Congressman MEEDS. Further questions.

If not, thank you very much, Peter.

Anything further to come before the Commissioners?

Commissioner WHITECROW. In the event we do have difficulty getting the data from the executive branch, I think we need to take immediate action to rectify the situation.

Congressman MEEDS. Let me just suggest to the Commission—I talked on the telephone with Senator Abourezk about this and he suggested, which I think is a good idea, that the congressional Members sit down with some of the Secretaries and just kind of let them know that we expect cooperation and if that is not forthcoming, then we will pick our battleground and have battle with them.

Commissioner WHITECROW. Good.

Congressman MEEDS. If there is not any further business to come before the Commission, we are adjourned. The business of the Commission is completed. There will be no need to meet tomorrow.

[Whereupon, at 5:25 p.m., the hearing was adjourned.]

MEETINGS OF THE AMERICAN INDIAN POLICY REVIEW COMMISSION

SATURDAY, MAY 8, 1976

American Indian Policy Review Commission,
Denver, Colo.

The Commission met, pursuant to notice, at 9:15 a.m., at the Hilton Airport Inn, Denver, Colo., Senator James Abourezk, chairman, presiding.

Present: Senator Abourezk and Commissioners Deer, Whitecrow, Borbridge, Bruce, and Dial.

Also present: Kirke Kickingbird, general counsel.

Task Force No. 3—Federal Administration and Structure of Indian Affairs personnel present; Sam Deloria, Ray Goetting, and Mel Tonasket.

Chairman Abourezk. The hearing will come to order.

I first of all want to express my thanks to the members of the Commission, members of the task forces who are here attending this hearing, and to the people participating—the witnesses.

The principal purpose of this hearing this morning, this afternoon, and again tomorrow—if we need to go into tomorrow—will be to gather evidence by taking testimony from various tribal leaders, and members of tribes from around the country, to determine whether or not the governmental structures that are supposed to be serving the Indian people are indeed serving the Indian people. During this investigation I personally want to find out, and I am sure many of the Commission members do as well, exactly what it is that the Bureau of Indian Affairs, HEW, and IHS are doing that the Indians could not do if they were left to their own devices. What services they are providing that the tribes can't do themselves. Are they in fact a hindrance to the tribes? Are those bureaucracies a hindrance, or are they a help? I am hopeful that we can elicit through questioning and through testimony some real good answers through hard questioning of what needs to be done, really, to get the Indian community sort of back on its feet, again, vis-a-vis the bureaucracy.

Does any other member up here have any opening statement they would like to give first? I was just advised by Mel Tonasket that we are starting on what is known as Lebanese lag time. He said the Indians were all here and they were waiting for the Lebanese to show up.

The first panel of witnesses we have are Mayor Wally Leask, John Smith, and David Leask from Metlakatla, Alaska. Are you all here?

STATEMENTS OF MAYOR WALLY LEASK, JOHN SMITH, AND DAVID LEASK, METLAKATLA, ALASKA

Mayor Leask. Yes, sir.

Chairman Abourezk. Would you please come up to the witness table?

I would like to welcome you here this morning, and if you are ready to proceed with your testimony, we are ready to hear it.

Mayor Leask. Thank you. First of all, I would like to introduce these people. I am Wally Leask. On my right is John Smith, who has been mayor six times in Metlakatla for 2-year periods, and David Leask, councilman, on my left-hand side.

We welcome this opportunity to testify before the Commission. It becomes rather frustrating in order to get things done and nobody wants to listen. Our big stumbling block seems to be communication. The Annette Islands Reserve, which Metlakatla is on, comprises 86,000 acres. We are sitting in the southeastern part of Alaska, just barely out of Canada, really, and we are more or less forgotten, more or less a stepchild.

The BIA is in charge of the area, the southeast agency, and they have contracted this out to the Tlingit-Haida organization, of which we are not a member. We are not a member of the land claims. We chose to keep our reservation status and to keep our reservation, and as a result we are just left down there and nobody seems to know who is looking after us.

The communications factor is quite high, it seems you can't communicate if nobody knows who is supposed to listen. One example of this is our natural resources. We submitted an application in 1971 and again in later years, and we finally got an answer in 1975, setting the thing up. But the thing that was missing, notably absent—I will read from our document that you should have copies of, a paragraph of the report for fiscal year 1975 of the Senate Appropriations Committee for the Department of Interior, which reads:

> The committee is disturbed at the failure of the Bureau and the Department to fulfill their trust responsibility to those Alaska Native groups not covered by the Alaska Native Claims Settlement Act. In particular, the committee directs the Department to review programs designed to manage and develop the full potential of lands and resources on the Annette Island Reserve and to implement programs which will increase tribal income, employment and other benefits.

We received some action after this. We do have a program and we are working on it, and we are making some progress inasmuch as this has just really started in the past 2 months, that we are really getting in on it.

There are quite a few other things that have happened in Metlakatla. Metlakatla is the largest reservation left in Alaska. We have about 1,100 Natives and it is really the only reservation left in Alaska. There are some reserves further out to the west but per se this is the only reservation.

Chairman Abourezk. They are smaller than yours?

Mayor Leask. Yes; they are much smaller. There is indecision whether to go with the land claims or not. Nobody knows, really, we don't know what the status is.

The communications factor is, we are in the southeast by ourselves, and Juneau is only 250 or 300 miles away but we will have to fly in and out of Juneau, there is no other way—we can go by boat, but it is quite slow.

The other trip we take yearly is to Washington, D.C., to try to work and get moneys for different programs.

Juneau, as close as it is, is far away. We have been having trouble communicating. The program has been turned over to other people and we haven't been getting any satisfaction.

Chairman ABOUREZK. Let me interrupt you, if I may, Mayor. Up to this point you have talked in general terms, that first of all, there is a lack of communication and you are having trouble getting around up there. I wonder if you would be more specific and direct your response toward questions of this nature: What changes in structure would you like to see in the Bureau of Indian Affairs, first of all? Do you like it the way it is? Do you want to change it? If so, how do you want to change it?

Mayor LEASK. On our trip to Washington, D.C., we asked, or more or less threatened to ask, to be put under the Portland area office. The reason for this was to get out from under the Southeast agency who have delegated more of their responsibility to the Tlingit-Haida. The reason we want to do this is to work directly with somebody who can make decisions as to all our different programs.

Chairman ABOUREZK. What programs, specifically?

Mayor LEASK. Our fisheries program, our natural resources program, and all the programs associated with a reservation.

Chairman ABOUREZK. When you say make decisions, do you mean make decisions as to what to do with it, or make decisions based on technical aspects of it?

Mayor LEASK. Decisions on technical aspects.

Chairman ABOUREZK. You figure your tribe can make political decisions to do what you want to do with the fisheries and so on, right?

Mayor LEASK. There are certain things that we are really not allowed to make decisions on. These are the trust responsibilities of the BIA, your fisheries, your forestry.

Chairman ABOUREZK. Be specific. What is it you are not allowed to make a decison on?

Mayor LEASK. Our fisheries, our forestry——

Chairman ABOUREZK. Do what with the fisheries?

Mayor LEASK. Opening the seasons and working the 3,000 feet around the area that was allocated to us under a congressional act, a proclamation by President Wilson.

Chairman ABOUREZK. So the tribe is unable to even decide on when to open the season?

Mayor LEASK. The responsibility has been given to the Secretary of the Interior who has delegated the responsibility to the area director of the South——

Chairman ABOUREZK. For example, how would you like to see that changed?

Mayor LEASK. I would like him to make the decison to work with us. We ask for things but then he has to coordinate it with the Alaska Department of Fish and Game.

Chairman Abourezk. Would you rather make the decisions yourself?

Mayor Leask. We can

Chairman Abourezk. Would you rather?

Mayor Leask. Yes; we would.

Chairman Abourezk. I guess you have been a fisherman for a long time so you have got all the technical expertise you need; isn't that correct?

Mayor Leask. Yes. We have traps, this is the big thing, the only traps left in Alaska, and this is a big, big stumbling block up there. It shows the fish going all over Alaska and ending up in our traps, which really isn't so. But we can operate it. We offered to cooperate with the fisheries, to tag the fish and to show just where the fish go and not to take it. We are concerned with conservation, also.

Chairman Abourezk. Mayor, If I might, and I don't want to sound like I am cutting you off or being rude, please don't misunderstand me. but we do have a lot of witnesses, we have a limited amount of time, and what we want up here is for you to be specific and not talk in generalities. If there are some specific examples aside from the fishing, which is very good, incidentally, that is the kind of thing we are looking for: What is it that the tribes ought to be doing for themselves that the BIA is now doing and hindering the tribes with? Think of another example. That is the kind of evidence we need. We need to know things like that.

And I might ask all the witnesses, in fact, please try to avoid talking in generalities. We have had a lot of that. We don't have enough specifics; that is what we need.

Mr. David Leask. Last year CFR was changed to let the area director open our fishery. We have to pass a resolution, send it to the area, then they make a decision. We asked for 25 fishing days and the structure being like it was, we ended up with 12 fishing days because it took so long to get this information out to the area and back. It is a really touchy subject because we were encroaching on what the State has been running previously. So we lost all this time. We put out two fish traps and fish traps cost us $135,000, the first one, to put it out, the second one cost us $90,000. So we have to get much fish back in order to make this thing profitable. We lost the entire month of July, we were into August. So it is a very short time to try to get your traps paid for or your cannery operation paid for.

Chairman Abourezk. You have a cannery operation?

Mr. David Leask. Yes.

Chairman Abourezk. In other words, what you are saying, that the BIA supposedly coordinates the fishing season with the State, right?

Mr. David Leask. Yes.

Chairman Abourezk. But the bureaucracy, the paper work is so slow that sometimes it never gets back to you in time?

Mr. David Leask. Yes. The first time it was handled in this manner was last year. This year we went for herring sac roe fishing and it worked a little better. We applied ahead of time. We have a man working with the Fish and Wildlife Service, he is from the Department of the Interior, and now he is taking care of only Annette Island and he is working with us on the conservation portion of the fishery.

I think that we should be able to make the decision. We know there is going to be a run of fish the first part of July. This is the one we would like to get for our traps. So we should have that all set up or the system should be set up so we can make the decision, go ahead and use it and get so many fishing days. We are interested in conservation from the point that we have made our living from it all the time.

Chairman ABOUREZK. What other examples can you provide for the Commission?

Mayor LEASK. One example, I think I know, is something that should be taken care of, the budgetary process of the BIA. We have never been involved in the budget process.

Chairman ABOUREZK. You mean the budget for your tribe?

Mayor LEASK. Affirmative. We don't know what it is, we try to find out what it is. We have never been involved.

Chairman ABOUREZK. Are you trying to tell me—you have a tribal council?

Mayor LEASK. Right.

Chairman ABOUREZK. And the council does not prepare a budget, even, and submit it to the BIA?

Mayor LEASK. We are trying to work with the BIA on band analysis, but through all these years Metlakatla has taken care of their budget themselves right in town. Other programs that come through: What do we budget for? We try to get police law and order, social service, which we did get a contract on, we finally got one in public health, but we have no idea how much money is being budgeted for any program. We are not involved and we haven't been involved in this.

This year I sent a man up to the meeting held by the Tlingit-Haida in the southeast on the band analysis and this is the first time that we have had anybody there, and I asked him what came out of it. He says, "Well, there's nothing, we're just left out of it." So we really don't know what is involved. That is one example.

We have some suggestions we hope can help us. That local needs can be defined by local people. We feel that an office there in Metlakatla would benefit us where we would have an open line to the BIA. We talked about local help, somebody to be there in Metlakatla. We would like somebody knowledgeable with the problems that would be there to work with us in the BIA.

Chairman ABOUREZK. So you want technical assistance, not decisionmaking assistance?

Mayor LEASK. We would like to have both. We feel if we got one there we would have the other.

Mr. DELORIA. Mr. Mayor, let me get something straight. You deal directly with the area office: Is that right? There is no agency that you deal with?

Mayor LEASK. No; the area office.

Mr. DELORIA. The agency has been contracted to the Tlingit-Haida, is that right?

Mayor LEASK. Yes, sir.

Mr. DELORIA. Is it part of their contract that they are supposed to provide some services to you?

Mayor LEASK. But what are they?

Mr. DAVID LEASK. Higher education.

Mr. Deloria. The Tlingit-Haida contract is supposed to serve your reservation?

Mr. David Leask. No. What happened was, when the Tlingit-Haida contract was set up, the Director of the Southeast agency saw that we were going to be left out so he budgeted certain areas to take care of us. One of them was higher education training, adult education manpower training. In the other programs, working directly with the area, we have been left out completely because——

Mr. Deloria. There are no BIA staff people on your reservation—located there?

Mr. David Leask. No.

Mr. Deloria. Do you have a tribal staff that works for you?

Mr. David Leask. Yes.

Mr. Deloria. Where does the money come from for that?

Mr. David Leask. I would like to give an illustration. Last year the BIA, the area office, was coming up with $50,000 for our law enforcement. This was last July. They said they had the money, they were going to help us on law enforcement. So on our band analysis we finally got some people down from Juneau, and OK, we are going to pick up or they are going to pick up our law enforcement. That is going to start this October—we hope. But what was budgeted on that was $84,000. We used previous expenditures. OK, $84,000. BIA was supposed to furnish us $50,000.

Two weeks ago, I believe, they wanted to enter into a contract with us on law enforcement, and since that money was supposedly available last year, until now we have spent $164,000. This is our own.

Mr. Deloria. Do you have contracts with the Bureau, other contracts?

Mr. David Leask. We have a social services contract right now and a natural resources contract.

Mr. Deloria. Did you have the same problems with the fishing season this revision or amendment of CFR, did they have the same lag time?

Mr. David Leask. No; it was given to the State. The State ran it. The area is divided into different districts. The season would be open in a certain area. We were always left out. They would open it around us so we couldn't fish even within the 3,000 feet because it was run by the State, but now that has changed completely.

Mr. Deloria. Now they took the power away from the State but they won't make a decision, is that what it is?

Mr. David Leask. It takes too long to make a decision.

Mr. Goetting. Let me ask a couple of questions here with respect to the size of your tribes. How many people do you have, what is your population?

Mayor Leask. Our last census was taken about 1½ months ago. It was 1,080.

Mr. Goetting. 1,080. I noticed in your submission here you are asking for an Indian agency office locally situated and staffed to serve your purposes, for the relationship with the Bureau of Indian Affairs, is that right?

Mayor Leask. Yes, sir.

Mr. Goetting. To the extent that the staff would require a large number of people or a small number of people—you are recommending that they do that—do you think it is economically feasible for the Bureau to establish an office in your area, in your locality, to serve you specifically?

Mayor LEASK. We feel, inasmuch as we haven't received anything heretofore, that it would benefit us. We have people working in offices now that could handle the extra position working with the BIA.

Mr. GOETTING. So if there were an agent in cooperation with your tribal organization you feel that many of these problems might be resolved?

Mayor LEASK. Yes, sir.

John, would you have something?

Mr. SMITH. Yes, I have something here. We had been back to Washington a couple of times regarding a superintendent for the Metlakatlan Indian community, and every time we have been back there they say, "Well, we'll see about it." But that has been going too long to see, because we feel that the Bureau of Indian Affairs should be more effective than that. If we have a superintendent there, like Mr. Leask says, we can go to him and say, "See what you can do about some money for roads and see about some culverts, see about these different things." The way it is now, it takes us so long. We go there, we call him, and nothing comes through.

Now, I hate to say this, but, you know, Annette Island, it is a small island, 86,000, what is it, square miles?

Mayor LEASK. Acres.

Mr. SMITH. Anyway, down in the States and some of the reservations that I have been in Arizona, they have places where they go for recreation. We are human beings, too, and we would like to go and travel to these lakes with good roads and fish and have picnics, and so forth. We don't have that.

Every time we ask the BIA in Juneau, they have a man there by the name of Nick Lean, and for years and years we have been saying, "Mr. Lean, can you help us with some roads here, can you put some culverts here? The houses are drifting away." Well, you're not on the budget. No way.

Chairman ABOUREZK. Can I get something straight? Is it your wish that there be some other structure other than the BIA to do these things, these trust responsibilities, for you, or do you want a representative of the BIA there, which way is it?

Mr. SMITH. The BIA seems to have the money. We are working, like you say——

Chairman ABOUREZK. If there were some other way to get the money to you?

Mayor LEASK. If there were any other way, we could make decisions on a lot of these things if we were allowed to, especially on trust responsibility. We could. What we are looking for is some communication, so that we can get some action. It takes too long and most of the time we are forgotten.

As an example, in the paper it shows it took 5 years to get this natural resources. But it is something that had been budgeted for previously by the BIA, but we are not in on it. Any way that we could get some action and get things done, we are looking for something to do.

Mr. Deloria. What you are saying then, is, the only reason you want a BIA person on your reservation is, to the extent the BIA has authority over your decisionmaking or over funds, you want somebody there to make those decisions on the spot so you can get on about your business: Is that right?

Mr. Smith. Not decisions. We want to pass the word on to him. He sits in our meeting. We had one before, about 25 years ago, a superintendent, and he sits in our meeting, and we tell him we want this from the BIA and it gets done. They took it away from us, and so there is, just like he says, no communication.

Chairman Abourezk. In other words, if you had one person, whether it be a member of your tribe or a representative of the BIA who could get ahold of Washington and tell them what you need, you would be satisfied with that?

Mr. Smith. That is right.

Mayor Leask. That is right; yes, sir.

Mr. Smith. Here is another deal, now——

Chairman Abourezk. We are going to have to move on. We are going to have to stay as close to the schedule as we can. I am really sorry. We would like to talk for another couple of hours with you because you have some interesting material.

Mayor Leask. We thank you very much for the opportunity of presenting this.

Chairman Abourezk. Mel has a question.

Mr. Tonasket. No, I don't have a question, I have a statement. If you have more that you would like to submit for the hearing record that isn't in your existing document that you handed in to us now, and if we stimulated any new thoughts for you to respond to us, I would like to request that you supply those to us. I think the record will be open for a month, so you have the opportunity to add more.

Mr. Smith. We will be glad to do that.

Chairman Abourezk. Thank you very much. The record will be open for 30 days for all witnesses to submit additional material.

Mr. Deloria. One more thing. Task Force No. 3 is here for the next 2 days and we would be glad to meet with you and you could discuss things with task force members to contribute to our efforts, too, outside the hearing.

Mr. David Leask. We will be submitting a paper to the Commission on the BIA's method of handling timber sales and the handling of the 10 percent that is taken off the top for management. This is a very poor system.

Chairman Abourezk. Good. And the more detailed you can give it to us, instead of general things, be very specific and in detail, it would be very helpful to us.

Thank you all very much. We appreciate your testimony.

Elmer Savilla, Quechan, is the next witness.

Elmer, welcome to the hearings.

STATEMENT OF ELMER SAVILLA, QUECHAN

Mr. Savilla. Thank you, Senator.

Chairman Abourezk. I am happy to report, Elmer, the Secretary of the Interior sent word up about 1 hour after we adjourned those hearings last week in Washington saying he would be very happy to come up and testify and be very happy to cooperate.

Mr. SAVILLA. That is good news.

Chairman ABOUREZK. I know you will be pleased to hear that.

Mr. SAVILLA. Senator and members of the Commission, my statement this morning is very brief and I would like to ask if it would be all right to read directly or would you rather I summarize?

Chairman ABOUREZK. Is it a short statement, Elmer?

Mr. SAVILLA. Yes, sir.

Chairman ABOUREZK. Why don't you go ahead and read it.

Mr. SAVILLA. My statement is purposely short and I wish to only emphasize a few points that are important to me.

First, I want to express my endorsement of a proposal to completely remove the Bureau of Indian Affairs from under the umbrella of the Department of the Interior.

The benefits of such a move would be many and to name just a few:

1. The inherent conflict of interest within the Interior Department would be removed.

2. There could be a strong administrative advocacy within the new Indian Department.

3. The obligation of the Commissioner of Indian Affairs and his area directors to carry out dictated policy from the Secretary of the Interior would be removed.

Very importantly the organized Indian tribes of this country must be given the right to manage and control their own affairs the same as any non-Indian community, free from the heavy bureaucratic restrictions that limit their development. The tribes are becoming sophisticated enough and ready to assume, through their own local agencies, most of the functions now carried out by the BIA area offices. This could possibly eliminate the need for many area offices.

One of the most frequently asked questions when the subject of eliminating area offices comes up is, "What would be done with the central office and wouldn't its work double and become buried in paperwork?"

Yes, it would if it is left like it is now, but there is a solution. My solution is:

1. Move the central office to a more efficient location such as here in Denver where it would really be central to a majority of the tribes that it serves.
2. This move would allow the elimination of the area offices and give more authority and responsibility to the local agency.
3. A Washington office could be maintained for liaison purposes and to serve the eastern tribes.

Can we afford such a plan? I think so.

Aside from the initial cost of setup the plan would prove to be economical for many reasons and would leave more money for services and programs.

As an example let's just look at one area. The 1976 band analysis allowed $37.49 million for the Phoenix area which serves 44 tribes. Divided equally this should allow at least $852,000 for each and every tribe but as we know this is not the way it is done. Factors such as service population and the cost of delivering the services determine how much a particular agency receives. The maintaining of the area office is included in the delivery cost. Can you imagine the tremendous cost of operating an area office which serves 44 tribes in four different States?

Another problem concerning the present system has been that complaints from all over the country say that area offices use favoritism as the criteria for expending program funds and that the area director's power structure is so powerful that the service tribes find it impossible to change area policy and are finally forced to go to the central office for help. In those subjects where trust responsibilities are involved in the request from the tribe to the area office then it becomes a vital issue of extreme importance to all tribes.

I know of at least three cases where certain tribes had requested, then argued for, then begged for, and finally had outright confrontation with the area director, while trying to get services that had been made available to other tribes by other area directors. These cases were in the area of trust responsibility involving water rights. Without going into those cases I would state that the value of the area offices in the present structure of the BIA is very questionable and there seems to be no doubt that we could do without them if the agencies were strengthened.

The Bureau of Indian Affairs, if it is really serious about improving its services, must definitely be restructured. A blanket bureauwide operational policy on all matters must be made so that all areas, if they remain, operate under the same method of operation.

The BIA must cooperate in a more positive manner with the tribes in their efforts for self-determination and especially in their efforts for economic development. Too many tribes are hampered by the indifferent attitude of area offices. My favorite subject, when it comes to Indian matters, is economic development, so let's talk a little of economic development.

It still takes money to make money. Those larger tribes with resource income are indeed fortunate. Those many small tribes who are struggling to get started need a lot of help. All kinds of help. Equipment, technical assistance, et cetera. Through the Phoenix area screening system many tribes in Arizona have acquired surplus GSA trucks, tractors, dozers, furniture and office equipment to be used on their own reservation development. Much of this equipment was acquired from military bases in California. Yet in California the tribes are not allowed to acquire any surplus equipment through the BIA which has a value of more than $300. This means that heavy equipment and trucks needed for development can not be acquired. Last year a memorandum from the area director's office set the limit at $100 in value but later he graciously raised the limit to the present $300.

I believe that it must be realized that if the tribes in the Public Law 280 States do not start making productive use of what land and water resources they now have, then they stand an excellent chance of losing them, even more so than the non-280 tribes.

The BIA's answer to the cries of "no help" is wrapped up in the present band analysis method of setting the agency and area budgets. Admittedly, this does give the tribe a chance to be involved but especially where there is a multitribe agency it seems that there is always a shortage of service program money and consequently tribes rarely would sacrifice one program for the benefit of another, thus perpetuating the problem.

The answer, of course, is more money for economic development purposes but at the present time according to the BIA there are more requests for grant money than there is available money.

Another impediment to progress is the heirship problem which has caused such fractionation of allotments that on many reservations the land sits there unimproved and in many cases the land is sold out of Indian ownership which in turn creates the checkerboard jurisdictional problem.

I might mention here that in southern California alone there are thousands of acres of prime fertile land sitting there undeveloped for reasons that go back several decades relating to the Bureau of Indian Affairs discouraging development.

I suggest that this Commission recommend that a special group be assigned to study the problem of heirship fractionation and solutions be drawn up which would allow the lands to remain forever Indian.

I also suggest that Indians everywhere reevaluate their priorities, for, with an education one may make a living away from the reservation but without economic development there will be no reservation to come back to.

Gentlemen, I sincerely appreciate this opportunity to present my testimony to you.

Thank you.

Chairman Abourezk. Elmer, thank you very much. That is an excellent statement, I might add.

Are there any questions?

Commissioner Dial. One question, Senator. First of all, let me say I was impressed very much with what you people are doing down there with your farming operation as a result of your irrigation project and your grain houses. What do you consider the number one problem, perhaps you answered it there in your four or five pages, but, in brief, what do you consider the number one obstacle in the area of economic development?

Mr. Savilla. Commissioner, I believe it is a two-fold problem. First of all, of course, before any programs can be successfully administered, economic programs, whatever, contracts, there must be an administration. I believe the Bureau of Indian Affairs has really fallen down on the job in not developing proper tribal administration.

In California especially there are many tribes who cannot afford a full-time chairman to run business affairs. The TGDP program, as we know, has been a failure. The formula by which they distribute the money for TGDP—tribal government development program, the proper overseeing of that program was not there. Consequently, those tribes that have received TGDP were not able to get their administration developed properly and there was a big failing, I think, one of the first things that the Bureau should have taken care of.

Second, once the administration is set up, then progams should be brought in that they can administrate themselves, whether they be contract or service programs or economic development. I prefer economic development, as I mentioned, as a priority, because once you have an economic base, then you have some place to bring your educated people back to. Without development your people are going to graduate and they will be gone somewhere else. I see that as a big need, to have ongoing resource income and development, so that your college graduates can come back to help in this growth of the reservation.

Mr. DELORIA. Mr. Savilla, you said the Sacramento area director has limited the California tribes to $300 for any one piece of surplus equipment that they get?

Mr. SAVILLA. Yes, sir.

Mr. DELORIA. On what authority, do you happen to know?

Mr. SAVILLA. I do not know. I have seen the memo. Unfortunately, I didn't get a copy of the memo.

Mr. DELORIA. Is there any explanation why there is such a limit?

Mr. SAVILLA. The memo mentioned because they did not wish to establish a big inventory setup.

Mr. DELORIA. They don't want to be cluttered up with material?

Mr. SAVILLA. Right. They would have to keep track of the equipment and they did not want to be bothered with that.

Mr. GOETTING. Elmer, on the declaration of surplus property, the method of disposition, they get it off their records anyway. What difference would that make, do you know?

Mr. SAVILLA. I sure don't know. I only know what the memo said.

Mr. GOETTING. I have one other question, Elmer, in terms of assistance on the TGDP program. Are you saying there is adequate technical assistance provided from the Bureau of Indian Affairs to work with tribes, to teach them how to use that adequately when they get that money, they let them waste it or let them lose it in terms of inaction or something like that?

Mr. SAVILLA. That is correct. As an example, a tribe near us, which is very poor and small, received $12,000 to hire somebody to train a tribal administrator. The tribe hired a non-Indian and when the non-Indian was ready to leave he just left and the tribe was left nowhere. There was no effort at all by the Bureau of Indian Affairs to say, "Hey, wait a minute, that's not what the money is for."

At the end of the contract, the contract had failed, no deliverables and the tribe was right back where they started.

Mr. GOETTING. Do you think technical assistance ought to be somewhat of a continuing operation to verify and check progress, this sort of thing over a period of time rather than just come in and set up and then leave?

Mr. SAVILLA. Yes, sir, I do.

Mr. DELORIA. On the question of area offices, has your tribe had an experience of frequently or seldom or never or all the time area office overruling a decision that the agency level has made? Suppose the agency level makes a decision that the tribe is dissatisfied with: Do you ever receive satisfaction from the area office? Does it ever overrule in favor of the tribe?

Mr. SAVILLA. I have to say our agency is not allowed to make any important decisions. Any decisions other than very simple ones have to be referred by the area director or to the area office.

Mr. DELORIA. So they make all the decisions?

Mr. SAVILLA. Yes; the important decisions.

Mr. Deloria. Is there any danger if the area office would be abolished, that since a great deal of the final decisionmaking would be made at the central office, that this would favor the tribes who had the travel money to go in and plead their own case and that the smaller, poorer tribes would be in worse shape than they are now? Is that a danger or not?

Mr. Savilla. No; I don't believe so. I believe it would help the smaller tribes. As I mentioned, one of the criteria for giving out program money has been favoritism, and the smaller tribes always seem to lose out. Many smaller tribes don't have the spokesmen or the expertise, whatever, to go pound on the door and ask for this money.

Mr. Deloria. And you think that wouldn't be a problem if the central office was allocating money?

Mr. Savilla. I don't believe so.

Mr. Deloria. Does your tribe have any contracts with BIA?

Mr. Savilla. At the present time we have one.

Mr. Deloria. What is that for?

Mr. Savilla. That is for an educational coordinator.

Mr. Deloria. Just one position then?

Mr. Savilla. Yes.

Mr. Deloria. How long have you had that?

Mr. Savilla. Since last November.

Mr. Deloria. Has it attempted to make any other contracts?

Mr. Savilla. No—excuse me, there is one other, the Indian Action Team, we have had that program for 9 months.

Mr. Deloria. Is that working, are you satisfied with that Indian Action Team concept?

Mr. Savilla. Yes; the way the Indian Action Team is set up, their operations, it is more left up to the tribe to operate it, with a minimum of direction from the Denver office. Technical assistance is available, and the bulk of the administration of the program is left strictly up to the tribe.

Mr. Deloria. If you could redesign the Bureau of Indian Affairs or reconstitute its function, what kinds of services or decisions do you think the Bureau of Indian Affairs should have, at whatever level?

Mr. Savilla. I would say that the tribes, most of them, are able to make their own intelligent decisions now, and it might be best left up to the tribe to say which decision they wanted, maybe on a year-to-year basis. But as I mentioned, many of the smaller tribes who have no administrative capability might not want to take on all this at once. They might be able to say exactly how much authority they wished to assume. I don't think there is any easy answer to that question, but——

Chairman Abourezk. Elmer, may I ask a question related to that? You mentioned that the Bureau has not done anything to develop management capability on the part of tribal officials. Is that essentially what you said?

Mr. Savilla. Yes.

Chairman Abourezk. Do you think it would be beneficial to have a program, an educational program of some sort, connected with three or four different universities around the country, a special management training program where the Bureau could provide scholarships for members of the tribe who want to go for a 6-month shot at management training or whatever, just to get an idea of how management structure ought to work and so on, when they come back they could work for the tribe or run for office or whatever it is they see fit?

Mr. SAVILLA. That sounds like an excellent idea.

Chairman ABOUREZK. Would that be a good recommendation for the Commission to recommend as far as legislation is concerned?

Mr. SAVILLA. I think it would be. So many of the tribes hold their elections on the basis of relationship, you know, favorite uncles get elected, for instance, and regardless of their administrative capabilities or business sense. This is, I think, a big mistake. But if they are in there, they should be given the opportunity to learn what it is all about, how to read a financial statement, for instance, things like this.

Chairman ABOUREZK. I have to say I am very much attracted by two of the ideas that you presented in your opening statement, that the BIA be completely removed from the Department of the Interior, conflicts there are obvious. Second, that the national office, the central office be removed from Washington and brought out into the Western States.

What do you think of an idea of this nature: A central office for the western tribes and a central office for the eastern tribes, both of them out of Washington, neither one in Washington?

Mr. SAVILLA. I suppose that is something like I mentioned here, a smaller office in the East to handle the eastern tribes since there would be a minority of the tribes out there. I suppose that would work.

Chairman ABOUREZK. The office would have to fit the job, naturally.

Mr. SAVILLA. Right. I think the best thing about an operation like that, it would eliminate, hopefully, the area offices.

Chairman ABOUREZK. And under that kind of a structure, you would have agency offices reporting directly to the central office under which is served, is that when you have in mind?

Mr. SAVILLA. Yes, sir.

Chairman ABOUREZK. Any other questions Mel?

Mr. TONASKET. I have two questions, Elmer, I think are fairly easy for you. In your turmoils that your tribe has been going through in your relationship with the area office and the central office, in your mind where is the power of the Bureau of Indian Affairs? Is it in the area offices or is it in the central office?

Mr. SAVILLA. I would have to say I believe it is in the area offices, at least certain of the area offices. I don't know too many area offices. I am acquainted with four area offices real well. The power seems to lay there, the decisionmaking powers for policy and all that, interpretation.

Mr. TONASKET. Then the way that I hear you talking today, you feel that it shouldn't be in the area offices, that it should be in the central office?

Mr. SAVILLA. No: I feel the bulk of the power should be at the agency level where the tribe at least has a close handle on it.

Mr. TONASKET. OK, thank you. The second question, your reservation, is that under the Sacramento area?

Mr. SAVILLA. No, sir, the Phoenix area.

Mr. TONASKET. Do you have any relationship with the Sacramento area, Riverside?

Mr. SAVILLA. No, no direct program relationship, no.

Mr. TONASKET. That shoots my question.

Mr. DELORIA. If the Bureau should be removed from the Interior Department where should it go? Should it be an independent agency in the President's office or a Cabinet level agency?

Mr. SAVILLA. I favor the separate department Cabinet level because to move it to any other department, I think would be just playing musical chairs with the same set of problems. I think it definitely should be established as a department of its own with its full staff of Secretary, Undersecretary, Solicitor department, et cetera.

Chairman ABOUREZK. Elmer, it is an excellent presentation. We appreciate very much your contribution.

Next panel of witnesses, Cal Peters, Wendell George, Skip Skanen from the Affiliated Tribes of Northwest Indians.

Good morning. Welcome to the hearings.

STATEMENTS OF CAL PETERS, WENDELL GEORGE, AND SKIP SKANEN, AFFILIATED TRIBES OF NORTHWEST INDIANS

Mr. PETERS. Thank you. Mr. Chairman and members of the committee, we don't have complete copies of our statement right now for you, but it is forthcoming, I understand. They will be here and you will have copies of our complete statement.

Chairman ABOUREZK. As we said, the hearing record will be open for 30 days for any materials that you want to submit. What we would appreciate this morning is a direct statement from you as to what you think ought to be done, whether or not you are happy with the existing structure of the Bureau of Indian Affairs, and if you are not, why are you unhappy, and how would you change it.

Mr. PETERS. Thank you. We have prepared our statement in three portions, actually four; (1) the introduction; (2) the problems; (3) the actions we have taken as the affiliated Tribes of Northwest Indians; and (4) the conclusion and recommendations. I, as president of affiliated tribes, Calvin Peters, will be given the first portion of the statement, Mr. Skanen, on my left from the Coeur d'Alene Tribe, the executive director of affiliated tribes, will be given the middle portion; Wendell George, from the Colville Tribe, will be given the conclusion and the recommendations on this program.

We have some 25 pages. Rather than go through the whole works we will try to summarize this down into an immediate conclusion rather than try to carry on for the whole program because, hopefully, you will review all this. So with that, I will just start out.

My name is Calvin J. Peters, president of the Affiliated Tribes of Northwest Indians. On behalf of the affiliated tribes, I welcome this opportunity to testify before the American Indian Policy Review Commission on problems relating to the structure, policies and procedures of the Bureau of Indian Affairs.

The Affiliated Tribes organization was founded a quarter of a century ago by tribes in the States of Washington, Oregon, Idaho, and Montana. Among the primary objectives of the oganization is the retention and development of Indian lands, resources, enhancement of tribal economic well-being of Indian people in the Northwest.

Membership in our organization is not limited to tribal; they have individual memberships from different tribes, from non-recognized tribes, recognized tribes, and even individual memberships in our organization.

Affiliated tribes has also actively worked on numerous problem areas in tribal relations with the Bureau of Indian Affairs, one such problem area being Bureau-operated boarding schools for Indian children. This presentation, however, will be limited to four areas which we have determined require the immediate attention of the American Indian Policy Review Commission. The final position paper of this organization, which will be presented to the American Indian Policy Review Commission in June, will cover fully all problems on all task forces covering all aspects of what the Indians in our area want to cover.

The problem areas which I will touch upon, and my two members, are protection and management of tribal resources; budget and band analysis; Bureau contracting procedures; and eligibility of Indians for Federal services.

We must make here a policy distinction between the trust responsibility of the Federal Government to Indian people and the role of the prime agent in carrying out that trust responsibility. The Bureau of Indian Affairs has been mandated, by the authority delegated to it by the Secretary of the Interior, to regulate Indian affairs and to protect Indian rights and resources. If there has been any consistency about the Bureau, it is, ironically, its continuing inconsistency, vacillation and arbitrariness in formulating policies which affect Indians.

It has been said that Indians are like the canary in the coal mine. Just as the canary is carried into the mine to test the air, so Indians are subjected to expedient and changing policies which reflect or presage national policy. When the canary dies, it is time to abandon the mine. Similarly, when a policy, such as band analysis, is tested on Indians and fails, it is time to shift gears in the policy formulation.

This one point should be emphasized: Indians have not changed policies, they have had to adapt to changing policies. More correctly, it should be said that Indians have not been allowed by the bureaucratic inflexibility of the Bureau to have input into the planning of the policies and procedures which are put forward to regulate Indian affairs.

What this means, ultimately, is that the Bureau is regulating Indians, as well as Indian affairs, by refusing to listen to input by Indians and by its failure to protect Indian rights and resources. I cannot underline this enough. This constitutes an abuse of the fiduciary trust responsibility delegated to the Commissioner of Indian Affairs by the Secretary of the Interior, and I want to emphasize that, abuse of authority. Indian people cannot put enough emphasis on this, no matter how we talk about it. It has been thrown at us on conflict of interest and they have always come up with an excuse. (I am deviating from my statement now.) A conflict of interest is something that we have to live with because it is something that goes on within the Interior Department. So rather than look at it as a conflict of interest, we as Indian people are saying this is an abuse of the authority delegated to them as our trustee. I underline it and express it as much as I can.

That is one of the prime concerns of the Indian people of the northwest.

As the prime agent responsible for carrying out the trust responsibility of the Federal Government, the Secretary of the Interior has fallen sadly short. The Bureau of Indian Affairs has dampened tribal aspirations with a maze of redtape regulations designed not to facilitate Indian goals but for administrative convenience. The Bureau has overseen the wholesale diminishment of the tribal land base and tribal resources, both natural and human, and has assisted public utility companies, railroads, and mining companies, among other non-Indian interest groups, in eroding and reducing Indian resources.

The Affiliated Tribes of Northwest Indians believe that from this time on there should be a new Indian policy, one which recognizes and fully supports the tribe's inherent right of self-government and one which would fulfill the trust responsibility of the Federal Government to Indian people by means of a new administrative system. The new Indian policy which we are advocating would recognize, as present Indian policy does not, that the trustee of this responsibility is the entire U.S. Government. No part of the Government is released from its obligation to preserve and protect the sovereign status and to protect Indian rights and resources. The creation of an independent Indian agency would not diminish the responsibility of other agents of the Government to fulfill agreements between Indians and the United States.

It is with this view that the Affiliated Tribes of Northwest Indians testifies before the American Indian Policy Review Commission today. I will describe four immediate problems that have to be dealt with. The remaining final report will come forth from our affiliated tribal meeting in June.

No. 1, protection and management of tribal resources, the failure of the trustee and its prime agent to substantially act to protect and manage tribal resources. Rather than go into all the coverage and backup on this, one of our main concerns, what we are hitting on mostly here is the water rights. We have two examples——

Chairman ABOUREZK. Cal, can I interrupt you here? Would your group, would you and your group, believe it to be a good idea that management of trust resources and protection of trust resources could better be accomplished by an agency such as a trust council authority whose sole job is to defend and protect Indian trust rights separate and apart from any kind of a Bureau of Indian Affairs structure that might be providing technical assistance?

Mr. PETERS. Definitely.

Chairman ABOUREZK. You would be in favor of trust council authority?

Mr. PETERS. Right.

Chairman ABOUREZK. Would you be in favor of separating the Bureau of Indian Affairs out of the Interior Department and making it a separate agency, whether Cabinet level or not?

Mr. PETERS. I have been advocating this for 6 years, as an individual. As president of the Affiliated I believe that they are of the same thoughts and feelings.

Chairman ABOUREZK. What about the concept advanced by Elmer Savilla, who testified just before you, that the area offices should be abolished and the agencies based on the tribal reservations should report directly to a central office located somewhere other than Washington, D.C.?

Mr. PETERS. Again, this is something that I have personally advocated, is the demise of the area office, as an individual, and it is the desire of the affiliated tribes to again do away with the area office, not completely but keep on more or less a skeleton crew in that area to work as technical assistance people, for tribes, and I concur with Mr. Savilla's recommendation.

Chairman ABOUREZK. But if you did maintain a skeleton technical crew in an area office, if that were to be the case, you would not want them to have any decisionmaking power over budgeting or other decisions that affect tribes?

Mr. PETERS. This is true. In our testimony we would like to see that this area is completely delegated to the Indian tribes to lay out the expenses that are of utmost importance to them, and have them submit their budget requests that are of highest priority.

Chairman ABOUREZK. Are the tribes economically capable of doing that now, or would they need technical assistance for budgeting?

Mr. PETERS. I would say it is probably about a 50–50 question; 50 percent are capable and ready to do it, and the other 50 percent would need technical assistance on that.

Mr. DELORIA. I would like to ask the whole panel, can you give specific examples of what the problem is? I know that you have great experience in tribal administration, so give us some of that, specifically. Is any Indian land being sold now—going out of Indian land now in the Northwest that you know of? Is it a problem of actually losing the land base?

Mr. GEORGE. You can consider it land or water, yes. On the Colville Reservation water has been sold. Land in the past has been sold. This has happened on other reservations, like the Quinault.

Mr. DELORIA. How about other resources? What is the problem in the management of resources? You are not getting the return you think you should be getting, or it is conservation practices, what is the problem?

Mr. SKANEN. Like on the Coeur d'Alene Reservation, in our forestry program, we haven't had an inventory on that for 14 years and we don't know whether we have been overcutting our timber or undercutting our timber and we have been asking the Bureau for the last 14 years to have another inventory done on that and it has been ignored and they haven't put additional money in there.

Mr. DELORIA. Have they refused you or just given no response?

Mr. SKANEN. Just given the response they don't have the money to do it.

Mr. DELORIA. Have you put it in your band analysis, or is this something that is not banded?

Mr. SKANEN. It is something that isn't banded, I don't think. We went back this past month, I think it was, to testify before the Subcommittee for Appropriations, asking for more money for this particular thing, and we did get support from our local agency office.

Mr. DELORIA. There are timber contracts on all that land, right?

Mr. SKANEN. Yes, it is put out for bid.

Mr. DELORIA. So somebody is cutting it, you know that much, you just don't know how much they are cutting?

Mr. SKANEN. Yes.

Mr. DELORIA. Are there other examples of things like that in the Northwest that you know?

Mr. TONASKET. Can I ask you about one—the Nisqually? I think they are going to be losing some land to the U.S. Army. I believe you are familiar with the situation?

Mr. SKANEN. Yes, I am.

Mr. TONASKET. The other thing I would like to ask, maybe any of the panel could respond: Are you aware of how many reservations in the Northwest that don't even have their boundary lines surveyed so they know what their exterior boundaries are? Are you aware of any of those sorts of situations, and is that important to you?

Mr. PETERS. Yes; it is. On the Nisqually issue we requested, as members of the Unprotected Rights Committee from the Portland area, from Fort Lewis, with the chairman, Zelma McCloud, present, a request was made for our group to investigate just exactly what intent the Army had toward the Nisqually situation.

Mr. TONASKET. Specifically, though, is it not right that the U.S. Army at Fort Lewis wants to condemn some of the Nisqually Reservation for firing range or artillery range, or something like that?

Mr. PETERS. Yes. I think the main thing, though, Mr. Tonasket, is that in our questions that we asked them, we asked them for a full review of what the Fort Lewis complex had toward the Nisqually Reservation.

Mr. TONASKET. I don't want to dwell on the Department of Army because our hearing is for the BIA. Are you aware of what the Bureau of Indian Affairs is doing to assist the Nisqually?

Mr. PETERS. I have to go into this part to show you the last part of the question you are just asking. We were informed that the Department of Army had brought this question up to the Department of the Interior to see what they could do about condemning the property and maybe taking it over or however means they might have of doing this, to diminish the remaining portion of the Nisqually Reservation. This was all done with no knowledge to the tribe. The tribe did not know anything of this. So the Department of the Interior right there has abused its authority to protect Indian rights.

Mr. TONASKET. Can we go on to the survey?

Mr. PETERS. The survey——

Mr. TONASKET. Boundary survey.

Mr. PETERS. There are a lot of tribes, and we hit that in our statement, that have not had their boundary surveyed and identified within the last 20 or 30 or 40 years. There is a discrepancy among the Department of the Interior on the boundaries compared to what the State feels it is, compared to what the Indian feels it is, and compared to what the Bureau of Indian Affairs feels it is. When I say Indians, I mean tribes.

Mr. TONASKET. What is their excuse for not surveying?

Mr. PETERS. Lack of funds.

Mr. TONASKET. Thank you.

Mr. GOETTING. I would like to ask——

Mr. PETERS. One thing, too, if I may, before you go into this, Mr. Goetting—and we hit on this in our band analysis portion—the lack of funds is really an area that is of concern to us. Band analysis creates one thing: It creates diminishing one program to enhance another program without diminishing the need for that program. We have what is commonly referred to as a ceiling on what the Bureau can ask for and what the tribes can utilize out of that band. The main thing hitting on the band is the programs in the band offer one thing: Salaries for Bureau people and travel. All the way from the central office on down to the subagencies, which could cover anywhere from the central, to area offices, to our agencies and how many subagencies you have from there on, thereby leaving very little funds for actual services to the tribes other than TA. This again falls back on——

Chairman ABOUREZK. "TA" is technical assistance?

Mr. PETERS. Technical assistance. Why do we need the area offices, because we go from the subagency, to the area, down to the Albuquerque subagency of the central office, to the central office.

Commissioner DIAL. May I interrupt right here? On your technical assistance: Would your resources be better managed by BIA or a competent technical person you would hire? Would you respond to that, please?

Mr. GEORGE. If I understand the question, are you talking about a general overall solution or a specific area?

Commissioner DIAL. In your case and in general: Would you differentiate if there is a difference?

Mr. GEORGE. There is a great difference. For example, we have identified, in the last few years on the Colville Reservation, a need for a geologist which the BIA didn't have. We could have gone outside, which we did to some extent. Over a matter of 3 or 4 years I think we have finally convinced the BIA there is a need for a geologist to help us. That type of thing has to be answered, I think, on an individual case-by-case basis.

Mr. DELORIA. When you ask for surveys or ask for geologists, you ask at all levels of the Bureau, right? You pursue this all the way—area office to central office: Is that correct?

Mr. SKANEN. Yes. In our case I can only talk on what we do over there. We don't have the problem with the boundary, it is the land, because our reservation is checkerboarded. In one part of our reservation we have over 8,000 acres of timberland, and we want that surveyed. The only thing the Bureau tells us is that it is up to the Bureau of Land Management to do the surveying. We have asked them time and time again for money to survey, but they say the Bureau of Land Management. If we were to have the BLM do that, it would take them 15 years to go through the whole reservation.

Mr. DELORIA. The Bureau of Indian Affairs says it is not their responsibility to survey, it is the Bureau of Land Management?

Mr. SKANEN. Yes.

Mr. DELORIA. Have they put that in writing?

Mr. SKANEN. No.

Mr. DELORIA. They won't put it in writing. Have you asked for it in writing?

Mr. SKANEN. No; we have talked to them about it quite a bit.

Mr. DELORIA. When they turn you down for something you ask that they are willing to admit is within their responsibility, do they give you a time when they can do it for you, or do they just say no?

Mr. SKANEN. They have just said "No" to us.

Mr. DELORIA. That is on the inventory you were talking about. Do they say, "We will do it next year or in 2 years"?

Mr. SKANEN. They said they would do it when they could get funds available.

Mr. DELORIA. But they don't say when that is?

Mr. SKANEN. No.

Mr. DELORIA. They don't say they will definitely program it a certain year?

Mr. SKANEN. No.

Mr. GOETTING. I would like to ask a question further on that with respect to the band analysis. Skip, you mentioned you didn't know whether some item was in the band or not in the band. When you have an opportunity to review the budget that the Bureau presents to you: Do you have any details that would identify what our priorities really are in terms of how you would prefer the money to be allocated for purposes of your needs? What sort of an opportunity do you have to review the details of that, or are they obscured in the band?

Mr. SKANEN. You mean in some particular branches?

Mr. GOETTING. Anything.

Mr. SKANEN. In our case we are always told, you know, what is in each branch and everything. Like in education, in the past I think the JOM was in there. At least we thought it was, and the Bureau told us it wasn't. So, you know, they informed us on this, our local agency, but the area office, we have never really talked to them about it, just the local agency.

Mr. GOETTING. If the band analysis is supposed to give you an opportunity to put your own priorities on it, why is it you can't get a priority on the amount of money to do the survey on the forestry inventory you are asking for?

Mr. SKANEN. If we did do that, we have got a lot of other priorities, and it would be pretty difficult. This is one thing we don't like about the band because we are taken from another program and put into, say, the forestry program. I think an inventory would cost something like $115,000 and with the present budget we have it would really hurt not only one program, probably many programs, and it would take away from there. This is one thing we don't want to do.

Mr. GOETTING. In other words, you don't have the right to establish the basis of your budget on the requirement of need rather than on what they say you can have?

Mr. SKANEN. They give us a certain amount of money and say, "This is what you are working with," and then you set your priorities and put your money where you think is the priority.

Mr. PETERS. If I may elaborate a little more on your question, the band analysis creates one thing. It creates a ceiling for all programs within the Bureau and to increase the funding on another program you have to take from one of the other programs within the band. The band consists of something like 35 to 45 different operations within the Bureau. The Bureau has a ceiling put on it right from the start. They are informed on how much money they have to work with and this amount of money is told to the tribes and the tribes are then requested to put in their priority on how they want this money spent within the band analysis. The band, to be effective—I want to back off there. The band is not effective, completely, there is no way the band can be effective except if the ceiling is taken off the funding portion of the programs, and the programs can be funded to the full complete request of what the tribe's needs are. This is one reason why we need the band taken out of the whole program. One question we keep asking: Why is the Bureau the only program working under a band analysis system?

Mr. Goetting. What it forces us to do, then, is to take your plea to Congress, to the Appropriation Subcommittee, to determine whether or not you can have add-ons to take care of the needs?

Mr. Peters. Right. Another thing, too, that the Bureau has a habit of doing is putting programs that are not under the band, as per example, road construction and the Judge Boldt decision, *U.S.* v. *Washington*. *U.S.* v. *Washington* consists of one thing, the fishery protection in the Northwest for the Indian people. If this money is put into the band, then it means that tribes throughout the country can reach up and take funds from that program and put them in another program.

Mr. Goetting. What you are really saying is that the budget presented to Congress does not represent what the Indian needs really are?

Mr. Peters. This is true.

Mr. Goetting. The fact is, the needs of Indian people are not being presented to the Congress?

Mr. Peters. That is right. The Indian people have in the past 2, 3, maybe 4 years, gone up before the House and Senate Appropriations Committee. I can remember when this used to consist of 1 day of witnesses' testimony. Last year they had a week for the House, and a week for the Senate. This year it was similar, because the Indian people are requesting direct line funding so that we can circumnavigate the band analysis program.

Mr. Deloria. In allocating funds do you feel the Bureau gives preference to unbanded programs over banded programs? Is there a problem? I think theoretically you have some control over priorities in the banded programs, right?

Mr. Peters. Right.

Mr. Deloria. It is the unbanded programs they control. So do they put their money into the programs they control and you don't?

Mr. Peters. My understanding is that the banded programs are directly allocated a certain amount of money every year and that amount can be increased 10 percent or decreased 5 percent.

Mr. Deloria. Does the same rule apply to the unbanded program?

Mr. Peters. To the unbanded program? No; I don't believe it does. This is one of the reasons why there are programs put under the band. As per example, the road construction program was threatened to be put under the band. The Northwest Affiliated Tribes took a stand on this. We sent telegrams back. We have seen telegrams that were sent back from the area offices back to the central offices saying that the

Indian tribes had 50–50 response that they would agree to put the road construction under the band. In reality, the Indian people completely objected to this.

Mr. DELORIA. What difference does it make? Why do you care? What is the significance of whether it is in the band or not for your purposes? Why are you opposed to it?

Mr. PETERS. On a base program—speaking again of the road construction—the road construction got something like $86 million this year, and they are outside of the band. They are on what they call the base budget of the Bureau. If that went under the band, they would automatically lose something like $40 to $50 million off from that because of the ceiling put on the band programs. In other words, a band program can only entail so many dollars, and that is the limit. They have a ceiling on that. So as the bugs work out of that, then if you want that certain program increased you have to take money from another program under the band and put in that category, so you are then decreasing the amount of money in this program to put in this program without the need for that program that the money was taken from being decreased.

Did that fully answer your question? I am not sure. It is rhetoric, I know.

Mr. DELORIA. No; it is not rhetoric. Yes, I think that answers my question. I don't think anybody in the world understands the band analysis completely. So I think you have gotten something across to me.

Mr. PETERS. Thank you.

Commissioner DIAL. Mr. Peters, all of you, and those who came forward prior to you, have been speaking of the unavailability of funds which rests with the Congress of the United States. Now, you mentioned a timber survey which it seems to me is not a tremendous budget item. Is this correct? What would you estimate the cost of this to be?

Mr. SKANEN. Timber inventory?

Commissioner DIAL. Yes.

Mr. SKANEN. We figure on our reservation, and we only have 30,000 acres of timberland, probably $115,000.

Commissioner DIAL. So it is not a big item?

Mr. SKANEN. To us, it is.

Mr. PETERS. For one tribe it may not be a big item, but there are others tribes—the Northwest is populated by timber.

Commissioner DIAL. Not a big item for the U.S. Government.

Mr. PETERS. To us it is a big item. Maybe to the U.S. Government it may not.

Commissioner DIAL. What I am really coming to here—it seems to me that you have two problems: (1) That oftentimes Congress is not appropriating the needed funds for various projects, and (2) is the Bureau dragging its feet? Where does the responsibility really lie? Could you say it is a 50–50 deal? Once the funds are available: Are they getting the most for the dollar? I would like to hear any of you elaborate on this.

Mr. PETERS. I think all three of us would like to elaborate on it.

Mr. GEORGE. For the most part we don't get our money's worth from the Bureau people. Even from the technical assistance type things we have gotten in the past. There is one program I would like to use as being a shining example where we really got some assistance. That was the Indian Action Team. That has been a fantastic program. The Bureau originally set it up. Then the bureaucrats, within the Bureau itself, tried to shoot it down and we spent a couple of years trying to keep that program going. It was a typical type bureaucratic ploy that we were involved in. It caused a lot of problems. If they could continue with concepts where such money is allocated to perform the program that we want, and let the tribe make the decision of who does that, like the Indian Action Team original concept was, and for the most part still is, then we have something. We have a tribal input, defining what their needs are, what the budget level should be and how the program should be carried out. That is what we are looking for, essentially.

Mr. PETERS. I want to hit on one thing that you said that really hit with me. You said the Congress is not budgeting or appropriating the needed funds. I want to turn that around and lay it back on the Department of the Interior and the Bureau of Indian Affairs. They are limited in the amount of money that they can request from Congress to fulfill their obligations to tribal people. So the blame is not with the Congress, it is with the Bureau of Indian Affairs and the Department of the Interior. As our trust people, they are not requesting the amount of money that is needed to cover the services that the tribes have requested. In our area every year we have to present a type or form of a program that shows every program on the band, and we are requested to prioritize what we want. Three years ago or 4 years ago, I completely refused anymore to prioritize the Squaxin Island tribal programs because I said, and I still say, "Every program that we have is of immediate importance to us, and there is no way you are going to tell me that I have to pick one program over another." And this is what the band does. So we are working with a budget that is inadequate to start with. The Bureau does not have the opportunity to present the overall tribal request, and again it falls back on what I stated earlier of the tribes going to Washington, D.C., and testifying before the Appropriations Committees of the House and Senate.

Mr. TONASKET. Just one final question about the budget system. You put the blame on the Bureau of Indian Affairs but I haven't heard anybody mention the Office of Management and Budget. If I remember right, it is the Office of Management and Budget that tells each department of Government how much money they can ask for, then it goes on down. Do you recognize the Office of Management and Budget as dictating and regulating how much the tribes can ask for, or what are your feelings about OMB in relationship to BIA? Any of you?

Mr. PETERS. I referred to the limitation on what the Bureau could ask for and I neglected to say who put that limitation on them. You have hit the nail right on the head, as far as I am concerned, that the OMB has done this. It was an oversight on my part to elaborate on this point.

Mr. TONASKET. How would you recommend a change to that?

Mr. PETERS. Of course, there are many different ways I could answer that. That is why I am pausing.

Mr. TONASKET. Wendell, would you want to respond?

Mr. GEORGE. We have some specific recommendations on how that can be done and it is in our prepared statement. The primary way we visualize this type of thing, of getting out of the dilemma we are in, is that the tribes develop their own budget, start at the tribes, start at the individual Indian, and work upwards. Don't delegate this to the power brokers we have within Washington, D.C., or wherever they are. Then work directly with Congress, as far as appropriating the budget. Keep at arm's length as much as possible from the executive branch of the United States, because the executive branch is an overgrown monster, too fat, and they perpetuate themselves with large salaries. This band analysis——

Chairman ABOUREZK. You are talking about the BIA, specifically?

Mr. GEORGE. Not specifically. I generalized because the Department of the Interior, as was mentioned before, has the BLM, the Bureau of Reclamation, and you can name a number of different organizations, all dealing with Indians.

Chairman ABOUREZK. What about Federal money that is credited to the Indian people but never reaches them? I am talking about salaries of your officers, and so on. How much of that money—there are several hundred million dollars a year that is allocated, that shows it goes to Indian people but the Indian people don't really get it.

Mr. GEORGE. Not unless they happen to be working for the BIA.

Chairman ABOUREZK. That is what I mean. Somebody claims $1.7 billion. It is hard to say what the exact figure is right now. But how much of that could be really allocated toward Indian services and taken away from salaries of people that are supposed to be administering those services who don't really administer them?

Mr. GEORGE. That's why we are promoting such things as an Indian Action Team and such things as the Indian Financing Act and technical assistance grants, that type of thing, where it takes a minimum of administration, a minimum of management, and you don't get yourself in the corner where you have a lot of people with high salaries and not delivering the service required.

Mr. DELORIA. What, exactly, is good about the Indian Action Team approach, why is that attractive?

Mr. GEORGE. There is a primary reason, and that is, the tribes make all the decisions of what programs are to be run and how it is to be run.

Mr. DELORIA. So you control it?

Mr. GEORGE. With a minimum of guidelines.

Mr. DELORIA. How would a system work—there are 275 tribes, roughly—how would a system work where the tribe was involved in the budget process all the way up and down the line? Clearly there is a management problem. The Appropriations Committee is not going to be able to meet individually with 275 tribes. Can you make a suggestion as to what is a manageable system?

Mr. GEORGE. Yes; we have three recommendations. Maybe I should point out——

Chairman ABOUREZK. Outline them, what are they?

Mr. GEORGE. It is very complicated. I am sure you realize it is a very complicated situation because we are trying to undo 200 years of problems that were generated. But we look at, as a near-term solution, establishing what has been coined an executive oversight committee, which would have a staff of Indian people, which would look into specific problems of misuse of funds, and misappropriation and that type of thing. This is something that could be done immediately.

Mr. Deloria. That is a committee of the Congress you are talking about?

Mr. George. The Joint Committee of Congress, but we are working with a group of Indian people, how they are selected and that type of thing we are not suggesting at this point, but a function of the executive oversight to investigate. A GAO, so to speak, of Indian affairs with the power to subpena. Now, that is a near-term solution.

A more intermediate type solution would be a collection of all the money that is appropriated to Indian affairs from all departments of the executive branch into a single independent agency, with the concept of that agency of allocating money to tribes on some plan, with a minimum of administration by that agency, by the executive branch, using the TA method, or grant method or that type of thing.

This is another thing that could be done fairly soon, what I call intermediate, maybe a couple of years it would take to put it all together and put it into operation.

This independent agency we would like to see with Indian people, or at least on a suggested basis, running the program, the grant system, or whatever it happens to be, but it is all collected under one umbrella so you can't hide all the administrative overhead.

The third and long-range type solution, which would probably take maybe up to 5 years to implement, would be an elective body of the sovereign nations of the United States. Without giving up any of the sovereignty of the tribes themselves, each delegate to this elective body could be delegated with authority given to him by his tribe, which could range all the way from zero authority, as far as approving anything, to maximum authority of approving budgets and program concepts. But we look at this as sort of a union of nations type thing, where they review the programs and review the budget collectively. They take all the work out of the hands of the Congress budget process, and all that is presented to the Congress is a summary of this analysis. You have more than tacit approval then. You don't have review and approval. You have origination from the Indians, which is exactly what we are looking for. This, in short, summarizes the three-phase plan we are suggesting.

Mr. Peters. I would like to hit on one other area in following what Wendell has said: That the trust responsibility is the responsibility of the United States as a whole. The Department of the Interior is delegated the prime agent for administering that responsibility. The Bureau of Indian Affairs is a delegated arm of the Interior to act on these problems. But the main thing we want to get across is that this in no way demises the thrust responsibility of all Federal areas of the Government; as, for example, HEW, HUD, and DOL.

Mr. Deloria. Have you had the experience of other Federal agencies taking the position that they have no responsibility to preserve trust resources?

Mr. Peters. Right.

Mr. Deloria. For example?

Mr. PETERS. They have said: "This is not our responsibility, this is the responsibility of the Bureau of Indian Affairs." I think Skip could probably hit on that.

Mr. DELORIA. What was the situation?

Mr. PETERS. Agency services because it is the responsibility of the Bureau of Indian Affairs. I think that falls back——

Mr. DELORIA. How many delivery services? Is there an example of another Federal agency taking some action that was going to have a bad impact on trust resources and when confronted with this by the Indians they responded by saying: "It doesn't make any difference to us what the impact is on trust resources because that is not our responsibility"?

Mr. GEORGE. Well, there are a number of shining examples, It might not come to exactly that type statement because you can't get such a very explicit statement out of them, but the Bureau of Mines, the Bureau of Minerals, the Bureau of Reclamation, the Department of the Interior in terms of establishing water codes, and improving water codes, taking advocacy position as far as the title rights to water and the fantastic leverage that is there, as far as economic development on the reservations. It seems to be a very dragging of the feet and actually opposition to the Indian needs. There is an extreme conflict of interest within the Department of the Interior where you have competing interests.

Mr. DELORIA. The Department of the Interior will not approve tribal water codes—is that what you are saying, or has not approved them?

Mr. GEORGE. Well, there are a number of problems with the water code, but that is in short the summary.

Mr. DELORIA. What are the other problems?

Mr. GEORGE. They want to take over the water rights itself, and take away the sovereign rights of the tribe to the water.

Mr. DELORIA. In what way?

Mr. GEORGE. Administer the water code.

Mr. DELORIA. They want to administer the water?

Mr. GEORGE. Yes.

Mr. PETERS. Other areas on which you are asking—it is not just water codes—we have law and order codes, fishing and hunting codes, the right to administer your own Indian affairs within your own tribal government. These are just other areas that are affected by this.

Chairman ABOUREZK. Do you have a question?

Commissioner DEER. I would like to ask whether the Bureau has helped defend the tribes in these water cases. Have they? What has their position been?

Mr. GEORGE. Like I say, it is hard to tell officially what their position is, but their actions indicate just it is opposite to our objectives.

Chairman ABOUREZK. The Bureau—to say nothing of the Department of Interior—has acted adversely toward the tribes?

Mr. GEORGE. Primarily from Washington, D.C. This is where your problem is. You go to the agencies, for the most part you find people trying to do a good job, but they don't have any authority in this case. So what the game is, back at Washington, D.C., the game of politics and that type of thing that they are playing.

Chairman ABOUREZK. How is the Bureau action against the Indians' water right presented?

Mr. George. The Bureau itself?

Chairman Abourezk. Yes.

Mr. George. Above and beyond the Department of Interior?

Chairman Abourezk. Yes.

Mr. George. I think they will again say, they don't have the money for inventory, for example.

Chairman Abourezk. By inaction more than action?

Mr. George. Right, by inaction.

Mr. Goetting. Neglect.

Mr. George. By saying they don't have the money within this band analysis. This is why there is such a strong feeling against the band analysis because it has been used as an excuse so often.

Commissioner Deer. What about the court cases that have been brought? What has been the position of the Bureau there?

Mr. George. At the agency level they do everything they can to help. It is only when we get to the point of a higher level intervention do we have the problem. That is why we are supporting the Trust Council Authority as an independent group of people which would advocate for the Indian rights. But the Bureau is headstrong from the standpoint they provide us hydrologists or that type of thing. It isn't the higher level type of help that we really need.

Chairman Abourezk. I think, Cal, we have come to the end of the time. I think it has been better to ask questions of you than it is to have your statement read.

Mr. Peters. What I would like to do, Senator, is hit on one more portion of what Ada Deer has asked and I will revert back to my testimony, just on this one area, just going to be real quick. For example, it is hard to find a single incident when the Department of Interior or Bureau of Indian Affairs took positive, aggressive action to protect Indian water rights against the taking of their water by non-Indians. There are countless examples of these agencies participating—and this is the underlining area—there are countless examples of these agencies participating and assisting in the taking of these water rights.

Chairman Abourezk. Do you have the examples themselves rather than just talking about the examples?

Mr. Peters. Yes.

Mr. Deloria. Is that in your statement?

Mr. Peters. This is our statement and it covers, like the *Winters* doctrine, the *Conrad* case, the *Walker River* case, the *Ahtanium* case, and *Arizona* v. *Washington*, where we have won these water rights but still there was not an advocate part taken by the Bureau to protect the water rights. For example, the *Colville* case, whereby the Colvilles have had to go out and get their own attorneys to fight their water case that they have right now, and the Justice Department coming up with another case, and more or less, rather than advocating the protection of these water rights are abrogating against the tribes for those water rights. These are included in our statement.

Mr. Deloria. Are the tribes in the Northwest making plans for the use of their water resources?

Mr. George. Absolutely.

Mr. Deloria. Do you have plans underway now?

Mr. George. Absolutely.

Mr. **Deloria.** Are you receiving technical assistance from the Bureau of Indian Affairs in making those plans?

Mr. **George.** No.

Mr. **Deloria.** Who is paying for this? This is what you are doing out of whatever resources you have?

Mr. **George.** Tribal funds, or you might say orchestration of the Bureau budgets we have at the agency.

Mr. **Deloria.** There has been no particular redirection of BIA efforts toward this particular priority of yours?

Mr. **George.** Redirection?

Mr. **Deloria.** Redirection. I mean they haven't set up a special staff or made any special money available or technical assistance?

Mr. **George.** Not for development of water resources.

Mr. **Deloria.** Is the *Boldt* decision being implemented by the Bureau of Indian Affairs, are the tribes being assisted to implement the *Boldt* decision?

Mr. **George.** I think Cal can answer that.

Mr. **Peters.** We have been working with the Bureau in getting funds, we have been requested to work with the State, and this worked fine until we hit a point this year, whereby the State was advocating a system of a dollar for dollar—a dollar that went for the tribe, a dollar goes to the State—and thereby creating a problem that since last year we have had 13 tribes intervene in the *U.S.* v. *Washington* case, they have been accepted by the courts, and if we go by what the State requested, these 13 tribes would be completely neglected as far as funds for this year's operation and their tribal responsibility of going by the court's mandate.

Mr. **Tonasket.** Could I ask one specific question on that? Do I remember right, when the first proposition came out to implement Judge Boldt's decision that the Bureau of Indian Affairs gave the money or a lot of the money to the State of Washington to manage?

Mr. **Peters.** It wasn't the Bureau, it was the Department of the Interior, through the Fish and Wildlife Service. Something like $690,000 that was supposed to go toward the enhancement of developing and implementation to meet the requirements of Judge Boldt's decision.

Mr. **Tonasket.** Did the Bureau fight to get a handle on that, as the trustee, that they could provide that service to you?

Mr. **Peters.** No. Certain individuals within the Bureau helped us but the Bureau as a whole, no.

Mr. **Tonasket.** Were they requested to?

Mr. **Peters.** They were.

Mr. **Tonasket.** Where was it turned down?

Mr. **Peters.** We had gone to the Undersecretary, we went to the Fish and Wildlife Service requesting their assistance, showing how we wanted this money spent, and we were cut off there. I am trying to answer your question on that.

Mr. **Tonasket.** I asked if the Bureau of Indian Affairs was requested to take this position. You said yes, but they didn't. At what level in the Bureau did they refuse to fight to get a handle on it?

Mr. **Peters.** I would have to go right to the Commissioner.

Mr. **Tonasket.** Thank you.

Mr. **Deloria.** Did he make an attempt to implement your request or did he make an attempt and was turned down by the Department?

Mr. Peters. I can't answer that other than to say in the letters that we got that there was no way they could assist in furthering——

Mr. Deloria. You just got a turn-down, you weren't told what happened?

Mr. Peters. In polite words, yes.

Mr. Deloria. You weren't involved in the process whereby he made that decision? You weren't consulted or you weren't brought into the meeting?

Mr. Peters. I am a member of the Northwest Indian Fish Commission representing the Medicine Creek Treaty Tribe. As a Commissioner I was involved, but as a tribal member I wasn't.

Mr. Deloria. As a chairman you weren't?

Mr. Peters. As a chairman I was not.

Chairman Abourezk. I want to thank all of you very much for an excellent contribution to the hearings today. We appreciate your testimony. As I said, the hearing record will be open for all of your extra submissions.

Mr. Peters. Senator, may I ask one question of you? I am doing this for a specific purpose. I want to get this on the record and whether you answer or not, that is your prerogative.

Chairman Abourezk. Cal, generally, when I am holding hearings, I never answer questions, I always ask them.

Mr. Peters. The one thing that alarms me, and I have been down here in Denver since Wednesday, through the grapevine, moccasin, whatever you want to call it, I have heard that there are tribes being threatened, requested not to attend this hearing. As a wedge, they are saying, "If you attend that hearing, you could stand to lose your programs that you have within your tribes."

My question is: Will you review and investigate whether this is true or not?

Chairman Abourezk. You bet your sweet bibby, I will.

Mr. Peters. It makes me mad.

Chairman Abourezk. I hadn't heard that. But let me ask you or anybody in the room here: Who has been threatened and who delivered the threats? That is exactly what I would like to know right now.

Mr. Peters. I think that is one way you are not going to get an answer because those people aren't here.

Chairman Abourezk. Who knows?

Mr. Peters. Because they have taken the threat.

Chairman Abourezk. What I need to know is where to start. Do you know who has been threatened and who has done the threatening, so we can start there?

Mr. Peters. I can find out for you.

Chairman Abourezk. All right; that will begin the investigation.

Mr. Peters. Right now I can't specifically say the tribe. I know who the tribe is, but I can't remember the name, number one; number two, there are other tribes involved. But I just wanted to get this on the official record.

Chairman Abourezk. All right.

Mr. Peters. So it is brought forth to the Commission, you know. We won't stand for this type of harassment, whether they are Bureau or whether they are Interior, or whoever they are.

Chairman ABOUREZK. I won't stand for that type of harassment—not for 1 second.

Mr. PETERS. Thank you, Senator. I think you have answered my question. Thank you very much for the opportunity of appearing before you.

Chairman ABOUREZK. We have one unscheduled witness: Sam Cagey. Sam, we have got about, at the outside, 15 minutes allotted because you are on schedule before we go on with the Creek witnesses. I want to ask Commissioner Ada Deer to act as chairman of the meetings for a short time. I have to do something else for a few minutes.

STATEMENT OF SAM CAGEY, LUMMI TRIBE

Mr. CAGEY. I think what I have got to submit, Senator, is a little thing on enrollment but it is a big thing in Indian country. It would be one of the recommendations from the Lummi Tribe to the Commission to try to find a solution on blood quantum, and where children of unwed parents are having problems being enrolled in the tribe. I will just submit this for the record.

Chairman ABOUREZK. All right.

Mr. CAGEY. That is all I want to do.

Chairman ABOUREZK. Great. The next witness is Glenn Moore and Robert Trepp of the Creek Nation.

[Thereupon Commissioner Ada Deer assumed the Chair.]

STATEMENTS OF GLENN MOORE AND ROBERT TREPP, CREEK NATION

Mr. MOORE. Thank you, Senator Abourezk. As our cover letter indicates, we are happy to be here to represent our principal chief, Claude Cox; our executive director, Ed Mouss, who is also on Task Force 8 and busy at this time; and our vice chief, Solomon McCombs, noted Indian artist from Washington, D.C.

As instructed, we compiled our testimony and we will present it and at completion we will try to answer any questions.

With me is my colleague, Robert Trepp, who has been secured by the Creek Tribe as a research analyst and policy expert. He is a graduate of the Arkansas University. He has a master's degree in political science and at this time is a Ph. D. aspirant. We hope that is forthcoming.

Members of the Commission, task force members and staff, ladies and gentlemen, the rural Indian in Oklahoma faces more seemingly unsolvable problems that one might think: The combination of a traditional lifestyle with the pressures of modern economics.

At first thought, one might ask that if rural Indian life is so hard, why are there rural Indians?

The allotment process prior to 1907, and the processes which have diminished the Creek land base by 95 percent, put our people in scattered rural sites which often have no relation to their own sense of community. In this isolation, with an Indian population outnumbered since before statehood by the Europeans, the State and local governments almost without exception ignored the physical, social, and economic needs of the Indian people.

The few physical community facilities which existed prior to 1907 were appropriated by the Second Curtis Act. The Indian schools and tribal buildings were closed and sold by the Secretary of the Interior. Only one Indian community within the Creek Nation has a community building, which it uses under a Federal use permit. The tribe has applied for transfer of this land from Federal to tribal title, but the BIA has not acted on this application.

The Second Curtis Act can be cited as Public Law 59–129, 34 Stat. 137, or as the act of April 26, 1906. If it had not been for legislation passed 1 year later, the Five Civilized Tribes would have been terminated by this law.

Section 1 ended the enrollment of the Five Civilized Tribes. This should be repealed so we can begin enrolling our citizens again, after an interval of 60 years.

Section 6 ended the tribal right to elect the principal chief. Congress, by Public Law 91–495, has given their consent that we select the principal chief. Election and selection are not the same thing.

Section 8 closed the tribal land offices. This should be repealed.

Section 10 closed our tribal schools. This should be repealed.

Section 11 ended the tribal right of taxation and provided for the distribution of all tribal assets. This section should also be repealed.

Section 15 closed and turned over to Interior all tribal buildings and their contents, and should be repealed.

Section 16 gives Interior the authority to sell tribal land, and should be repealed.

Section 24 requires that any public road in the Five Tribes area may be built by Interior with tribal funds, and should be repealed.

In other words, Public Law 59–129 must be dismantled if the Five Civilized Tribes (Creek, Seminole, Choctaw, Chickasaw, and Cherokee) are to maintain an adequate tribal government.

The major resource of the rural Indian is land. Of course, trust land is a physical resource of major importance to an Indian: if all else failed, the traditional Indians of the past have been able to subsist off of their allotments by small crops and small game. Even this resource is dwindling: only a little more than 200,000 acres of trust land remain within the Creek Nation. The major reason for the dwindling trust lands is that any heir of an allottee can force the sale of the entire allotment. Some sort of new ownership concept is needed to prevent the loss of the remaining land: ownership in common, rather than an emphasis on individual ownership. Trust land is a tribal resource, and the tribe must have a way to protect it by purchase or regulations. Indian country must not be diminished any more—it must only be increased.

The social needs of the rural Indian are also important, but are not relevant to this hearing.

Of course, the economic needs of the rural Indian are the most pressing and the most obvious problem of the rural Indian, although until recently economics was also the least documented problem.

But these economic needs are all tied to the basic resource of the rural Indian—land. When we speak of Indian land in Oklahoma, we sometimes mean restricted land and sometimes unrestricted land. I strongly recommend a national policy of encouraging financial institutions to mortgage restricted land in much the same way as they mortgage a leasehold.

Furthermore, I recommend that whatever structure has the future responsibility for Indian affairs be charged with increasing the Indian land base in Oklahoma. For example, the Creek Nation land totaling over 3 million acres was allotted in 1906. Today, only about 150,000 acres remain, about 5 percent. The realty responsibilities within Indian affairs must include restoration of the Indian land base in Oklahoma, both to tribes and to individuals. I strongly recommend that the Federal Government, through whatever department, increase the Indian land base in Oklahoma and in any other State in which the Indians have had to suffer the allotment and distribution of their lands.

I also recommend revision of the policy of single heir partition writs, by which a single heir to an Indian allotment can petition for a writ to partition the money from an immediate sale of the property. This practice more than any other has contributed to the recent declines in the Indian land base. Furthermore, I recommend that the policy of informing tribes of impending sale of restricted lands be continued, with stronger requirements for tribal notification. It is rare in Oklahoma that a tribe is actually informed of an upcoming land sale.

Finally, I recommend stronger programs for the agricultural development of tribal and individual Indian land. In Creek country, it is often easy to identify restricted land because it is the land which has not been cleared. A national policy which allots timbered land to Indians and expects them to have the resources to clear it for agricultural use is contrary to common sense, and should be revised. Of course, the clearing should be at the option of the individual or tribe.

That completes my testimony and before we have the questions I would like to have my associate, Mr. Trepp, present his testimony. Thank you.

Mr. **Trepp.** The Creek Nation is vitally interested in the future structure of Indian affairs. As a general subject, of course, this covers a wide variety of topics. Today, I would like to limit my remarks to one specific area: The proper role of Indian affairs in the overall organization of the Federal system of government. These remarks have been discussed in our tribal committtees and staff, and are the position of the Creek Nation.

Today, Indian affairs are assigned to the executive branch. By this, all programs directed toward American Indians operate within one of the several departments at the Cabinet level. For example, the BIA is under the Secretary of the Interior, IHS is under the Secretary of Health, Education, and Welfare. Indian community development block grants are administered by the Secretary of Housing and Urban Development, et cetera.

This creates so much organizational confusion that it is becoming impossible for the tribes to operate within the executive framework. It is not that the tribes, individually and collectively, lack the intelligence, capability, and technical expertise necessary to deal with these Cabinet departments. To the contrary, it is these Cabinet departments, individually and collectively, which lack the intelligence, capability and technical expertise to deal with the tribes and with each other.

Therefore, I strongly recommend that Indian affairs be taken from the executive branch. The administration of Indian affairs will continue to deteriorate as long as the executive branch of the U.S. Government has sole responsibility for their conduct.

Obviously, Indian affairs are not solely a judicial nor a legislative duty of the Government, nor are they an exclusively executive duty. On the other hand, Indian affairs are constituted by governmental duties which are simultaneously quasi-executive, quasi-legislative, and quasi-judicial. There is only one form of governmental organization of powers which embodies these three types of power simultaneously: Independent commissions and agencies.

Therefore, I strongly recommend that Indian affairs be assigned to an independent commission. Only this assignment of Federal power will alleviate the present confusion of Indian affairs with the executive branch.

Of course, the present confusion which I am speaking of will continue and persist if all aspects of Indian affairs are not assigned to this independent commission. Therefore, I strongly recommend that all aspects of Indian affairs, whether currently assigned to Interior, HUD, HEW, Justice, or any other executive department, should be assigned to this independent commission. In addition, I recommend that the powers and duties of the Indian Claims Commission, itself, a Federal commission, should be assigned to this independent commission.

Hypothetically, allow me to call this future Federal commission the Indian Affairs Commission. The commission should have a governing board entirely composed of American Indians. The governing board should be large enough to provide representation to tribal associations such as the Five Civilized Tribes, the United Tribes of Western Oklahoma and Kansas, and other geographically based as is possible, and should be relatively proportionate in terms of population represented.

Possibly, this could lead to an investigation of the rights of other native Americans and their rights in each commonwealth or trust territory. The governing board will be large, but it will insure that each tribe has access to the governing board at all times. Each member should be selected by a regional plebescite for Presidential nomination.

The Indian Affairs Commission should be empowered with the full Federal trust responsibility for American Indians, including domestic assistance programs, provisions for contacting these and other programs, settlement of claims, Federal recognition, and all other issues of Indian affairs.

In addition, the Indian Affairs Commission's initial annual budget should not be less than $3 billion, since this amount is the approximate Indian deficit income annually in the United States, the amount of income Indians would need to be earning "average" wages. This level of funding should be guaranteed for a minimum of 10 years, during which time a national Indian economic recovery program must be effectively used to develop the potential human resources within each tribe.

The tribes must be empowered and funded to provide the basic economic tools which they lack to this very day, in order to keep this money within each tribal economic system. A tribal economic system should include banks, credit unions and savings and loans, warehouses for storage, vehicles for transportation of goods, and cooperative buying and selling of goods and services through central tribal offices. This is the only way that economic development will ever succeed with the tribes.

Also, the tribes must be phased into a program of local autonomy which will finally allow self-determination. Termination of Federal responsibility should not even be considered, for the same reason that the relationship between the States and the United States cannot be terminated. Even then, a tribe should be terminated only when the Government can prove beyond a reasonable doubt that such a tribe is self-sufficient, autonomous, has the economic resources to maintain the general welfare of its tribal citizens, and the political and social resources to protect its tribal rights.

Finally, my recommendations must include a call for an amendment to the U.S. Constitution which should read as follows:

The rights of aboriginal American Indians to an internally sovereign self-government shall not be abridged by any State nor the several States.

The authority and jurisdiction of American Indian governments shall be absolute within their own boundaries, subject to this Constitution. Internal powers of these governments which have been limited by law are hereby restored.

American Indians shall be represented in the U.S. Congress by 3 Senators elected at large for terms of 6 years; and by 13 representatives to be apportioned geographically by the Congress every 10 years.

I thank the Commission for its time.

Commissioner Deer. Thank you, gentlemen, for a very comprehensive statement. Questions?

Mr. Deloria. Do you have an estimate with regard to your suggestion of consolidating the tribal land base? Do you have an estimate of what that would cost? Do you have any idea?

Mr. Moore. No; we don't have any estimate of the amount of cost.

Mr. Deloria. Have you made an attempt or has the Bureau of Indian Affairs shown any interest in assisting you in coming up with specific cost estimates so you can make a plan for consolidation?

Mr. Trepp. No.

Mr. Moore. No, they don't want us to consolidate. That is our assumption.

Mr. Goetting. Have you requested it, though?

Mr. Moore. No; we haven't requested a consolidation plan of any kind.

Mr. Deloria. Are there any economic development plans that your tribe is making, using BIA technical assistance or BIA funds?

Mr. Trepp. No, all of our technical assistance for economic development comes either through EDA directly or indirectly through EDA through the Five Tribes Foundation.

Mr. Deloria. The Bureau of Indian Affairs is doing no economic development assistance to your tribes?

Mr. Trepp. They are doing industrial development assistance but there is some question within the tribes as to whether industrial development is the particular type of economic development that we need.

Mr. Deloria. We have heard that in certain parts of Oklahoma, at least, individual Indians are being required to sell all or a part of their restricted land in order to receive welfare assistance, and other public assistance. Do you know this to be a fact? Is this happening in your area?

Mr. Trepp. The one program that I am aware of is to aid families with dependent children. Which, of course, is federally funded. Under the regulations, anything more than 40 acres of land is counted toward your reserve, and you are allowed no more than, I think it is some $4,000 of value in your economic reserve. Basically, what this means is that if you own more than 40 acres of land you are not eligible for aid to dependent children.

Mr. Deloria. Even if it is restricted land?

Mr. Trepp. Even if it is restricted land. Unless you are an original allottee, and, of course, our allotment took place in 1906.

Mr. Deloria. What is the basis of the distinction between the original allottees and heirs, do you happen to know?

Mr. Trepp. Well, it is one of these distinctions which keeps running through all sorts of different Federal programs, whether we are actually Indians or whether we are the descendants of Indians.

Mr. Deloria. Isn't it difficult to be a descendant of an Indian without being an Indian?

Mr. Moore. That is our argument.

Mr. Deloria. They haven't explained how you manage that?

Mr. Moore. In fact, they can't even define an Indian.

Mr. Deloria. This is an HEW regulation?

Mr. Trepp. No; that is an Oklahoma Department of Institutions, Social and Rehabilitative.

Mr. Deloria. HEW has approved that regulation?

Mr. Trepp. Apparently so.

Mr. Deloria. Has the Bureau of Indian Affairs made any attempt to question that regulation?

Mr. Trepp. We have asked that the Bureau of Indian Affairs itself be the determinator of Indian resources toward all social services programs, and they have agreed to investigate this possibility.

Mr. Deloria. When did they agree to that?

Mr. Trepp. Approximately 1 month ago at an intertribal council meeting.

Mr. Goetting. Organizationally, I would like to ask one question with respect to a point that came up with the previous witness. You have quite an elaborate recommendation for the establishment of the structure of Indian affairs in the Federal Government. The question was whether or not a Trust Council Authority ought to be separate from the delivery of services to the tribal agency or whether it should be combined. As I understand it, your recommendation would combine those two, or the legal trust responsibility, even the Land Claims Commission that is separate now would be involved in a consolidation, you would still like to see all of it in one?

Mr. Trepp. I would like to see all of it consolidated conditionally with the American Indians running the program and making the decision. As long as it is an Indian decision I am willing for one single agency to run the programs, set the budget, to act on Federal recognition in all Federal trust claims.

Mr. Goetting. Providing the agency is governed by Indian people?

Mr. Trepp. Yes, sir.

Mr. TONASKET. I would like to ask a couple of questions. I would like to go back to your loss of land because of qualifications for social services, whatever those services are. Has the Bureau of Indian Affairs—how would be a good way to say it without cussing? Because the things you are talking about are exactly the things my tribe went through 3 years ago and we beat it. But has the Bureau of Indian Affairs or your superintendent refused to allow land to be sold to qualify for public assistance or social services?

Mr. TREPP. In the case where an individual is ineligible for those public services, we try to provide them through the tribe in any way that we can to prevent the necessity of that individual selling their land.

Mr. TONASKET. But has the Bureau of Indian Affairs condoned those requirements by the State, or has he fought it and said, "No, I will not approve this land being taken out of trust for sale"?

Mr. TREPP. There has been no effective program.

Mr. TONASKET. Has there been a request for the Bureau of Indian Affairs to take a position?

Mr. TREPP. Well, as I said, this was discussed previously at an intertribal council meeting about 1 month ago.

Mr. TONASKET. I would like to talk to you when we break for lunch on just that one topic.

Concerning your rolls you brought up, Mr. Moore, you would like, whichever law you quoted, to be amended so that your rolls can be opened up again and enrollment started. Has your tribes or tribe kept up their rolls, even outside of the act, or that would allow more expedient enrollment activities if the law was amended?

Mr. MOORE. Right now we are trying to devise a system whereby we can enroll them ourselves, but up to this point we have relied on the per capita section roll in the BIA.

Mr. TONASKET. Then back to Mr. Trepp, you brought up that ugly word "termination," a real ugly word, "termination," and you mentioned one or some qualifications that should be held before a tribe is terminated. Do you think it is advisable to even mention any qualifications for termination?

Mr. TREPP. Well, as I said in the sentences immediately before that, I do not feel that legally the relationship can be terminated for the same reason the Federal Government cannot terminate its relationship with the State of Rhode Island, nor can the State of Georgia terminate its relationship with the Federal Government. It is a continual and permanent relationship. But if for some strange and obscure reason termination again becomes the policy of the U.S. Government, let's make sure that no tribe is terminated if they cannot support and maintain their own tribal system.

Mr. TONASKET. Hopefully, from this Commission and from a time until we can't think that far ahead, that will never happen.

That is all the questions I have.

Mr. GOETTING. I would like to ask one more in regard to the census. You are maintaining the census in your eligibility for membership, if the rules were changed to your liking, you know who would be on your rolls, from the date they were closed up until now?

For instance, I would like to ask you, are you a member, considered by the Creek Nation as a part of the Creek Nation?

Mr. TREPP. Yes, I am a registered voter with the Creek Nation and, of course, I am on the tribal judgment lists.

Mr. GOETTING. How did you get on that with the roll being closed?

Mr. TREPP. I used my grandmother's roll number the same way as Glenn uses his father's roll number.

Mr. GOETTING. There is a system, then, for recording heirs, is that right?

Mr. MOORE. In the Bureau of Indian Affairs, yes, sir, that is what I said.

Mr. TREPP. It is a descendants' roll, not an enrollment itself.

Mr. GOETTING. I just wanted to be sure I understood that.

Commissioner DEER. Any other questions?

Thank you, gentlemen.

Mr. MOORE. Thank you very much. We appreciate the opportunity of being crowded in ahead of your schedule. We hope our testimony will be productive.

Commissioner DEER. We are trying to proceed as rapidly as possible to fit in as many people as possible, so at this time we would like to call up unscheduled witnesses, since our next scheduled witnesses are for 1 p.m.

I understand there is a representative from the Mescaleros here, Mr. Peso, would you come forward, please?

STATEMENTS OF FREDERICK PESO AND WYMAN McDONALD, MESCALERO APACHE TRIBE

Mr. PESO. Madam Chairman, gentlemen of the Commission, I am from the Mescalero Apache Tribe. Our vice president, Samson Miller, was supposed to attend but due to tribal religious ceremonies was unable to make it. We do have a prepared statement, which is about five pages long. I would like to get into the three parts, a lot of the problems that the other tribes have had, we do have similar problems, and we have submitted a statement in writing to the Commission outside of what we have here. We have selected three major items that we would like to present to the Commission at this time, and instead of reading it I would like to have permission to just go ahead and state what they are.

Commissioner DEER. Very good. Would you introduce yourselves?

Mr. PESO. This is Mr. Wyman McDonald. He is the superintendent of the agency, the Mescalero. I am Frederick Peso, secretary of the tribe.

First off, as you know, we are very active in the development of tourism on the reservation. We have various projects going on the reservation. A few of these have come to be serious problems on the reservation. The three major ones that I will mention are: The sale of alcoholic beverages on the reservation, which encountered three problems that we have within the reservation at this time, which also we are in litigation with the State of New Mexico; the administration of the timber contracts on the reservation; and also the trader's license that we are having problems with and we have gone into litigation in the State of New Mexico. This all includes problems that we have had dealing with the Bureau of Indian Affairs.

First off, I would like to get into the sale of alcoholic beverages on the reservation. 18 U.S.C. 1161 concerns itself with the application of certain State laws on the sale of alcoholic beverages on the reservation, and through this law, the tribe has introduced alcohol on the reservation. For approximately 10 years we have had a tribal liquor store without the purchase of a State liquor license. Now we have gone into tourism and have built the Inn of the Mountain Gods on the reservation, and because of the sale of liquor on the reservation and our tribe's refusal to purchase a State liquor license, we have gone into a lawsuit. The only way that the tribe could get a license, because of the State quota system and the number of licenses available to the people within the State, that we would have to purchase one outright, which would be in the amount of approximately $100,000 for a State license. There is no way we can get a license from the State to put a license at the Inn of the Mountain Gods. We have refused to put one, and according to the law itself concerning the rights of the tribes to be able to allow liquor on the reservation, the State law states that they should be in conformity with State laws.

The tribe contends that being in conformity with the State laws is only for the age limit and for the closing and opening hours of that and the particular sales of it. We have refused to purchase one.

This infringes on one part of jurisdiction, for the State, infringement on tribal government. It also infringes—not with the State but the Bureau and the keeping of the trust responsibilities within the tribe. This also involves the fire protection and the law and order.

As far as having a resort facility or moneymaking facility on the reservation, the Bureau contends this is a tribal enterprise and being that it is an economic development in bringing income to the tribe, that this is the tribal responsibility. We contend it is also a Bureau responsibility. The Bureau has refused to give police protection at the Inn itself.

Mr. Deloria. Do you have tribal police?

Mr. Peso. We have Bureau police.

Mr. Deloria. The only police on the reservation are Bureau police?

Mr. Peso. Right.

Mr. Deloria. And the Bureau refuses to provide police protection at the resort?

Mr. Peso. Full-time protection, right. They do send a man out to the resort to be close by there at times and they can be on call but we cannot get the Bureau to have those policemen out there. Any security guards or anything within the resort itself, they say is the responsibility of the tribes, which brings in another problem, that if we had tribal police within the resort and something happened, the tribe is liable for suit because they are not under the protection of the Government. The security guards will have the authority from the tribes.

Mr. Deloria. Does this mean if a problem came up at the resort and the Bureau police were called to look into a possible violation of the law, that they would refuse to respond, or that they simply won't detail somebody there full-time?

Mr. Peso. They will respond but it will take a while for them to get to the resort from the agency.

Mr. Deloria. Because of distance?

Mr. Peso. Because of distance. It continues to go into the problems because there is money available to the Bureau of Indian Affairs but they cannot get enough policemen to operate and they can't get money to get policemen to be on duty up there.

Mr. Deloria. At what level was this decision made?

Mr. Peso. At the area level.

Mr. Deloria. At the area level. Has that been appealed to the central office?

Mr. Peso. We have been having problems over that ever since we opened it up. And then another problem that arises out of this same thing is that we cannot get fire protection there. According to the regulations of the Bureau of Indian Affairs, that this is a tribal responsibility, the only protection that the Bureau can give is to Government facilities within the confines of the agency.

Mr. Deloria. Does the tribe have a fire department?

Mr. Peso. We don't have a fire department. There are no funds to set up a fire department.

Mr. Deloria. And the Bureau has a fire department?

Mr. Peso. The Bureau has a voluntary fire department and the forest fire protection.

Mr. Deloria. What happens if there is a fire in the residential part of the reservation?

Mr. Peso. The Bureau has acted on it but this has never been—they have gone to the houses and saved the foundations.

Mr. Deloria. Is the Bureau supporting your position in the litigation on the liquor license?

Mr. Peso. The Justice Department has taken this up with the State.

Mr. Deloria. The Justice Department is handling the suit?

Mr. Peso. Right.

Mr. Deloria. Not the tribe?

Mr. Peso. Right.

Mr. Deloria. Have you received assistance of any kind—technical assistance or financial assistance—from the Bureau of Indian Affairs in developing various codes and regulations through the tribal government? For example, do they provide any assistance in developing codes for the regulation of liquor, or did you have to pay for that on your own?

Mr. Peso. The tribes has done that on its own.

If I may continue on with the other one—the administration of the timber contracts on the reservation. We have had several problems that have arisen from the sale of timber on the reservation for quite a number of years. We were one of the first tribes to get into the sustained yield on the periodic sustained yield program on the reservation in selling the timber, and during this time the timber—the slash has been allowed to pile up and to be left behind. Timber has been cut and been allowed to take off the reservation without a deposit being put up. Timber has been felled on the reservation and allowed to rot there and we have asked for quite a number of years to have something set up and we have never known the exact or the right price of what our timber is.

We have asked for a mill study quite a number of years ago. We were refused that. We have asked for help in determining how much the timber would be worth, and we have not had that much help from the Bureau.

Recently, when we had problems with the timber contractor, in them taking the timber off the reservation and we asked the Bureau to give us a price on it because we were negotiating a price with the contractor, the Bureau told us the worth of our timber, for the pine, would be $22. The price that the tribe was able to negotiate was a $35 cost on it. The Bureau insisted that we take the lower cost, and these are supposed to be experts coming out of the area office.

Mr. Deloria. When did this happen?

Mr. Peso. This happened within the last 2 or 3 months.

Mr. Deloria. So have you taken the lower cost?

Mr. Peso. No.

Mr. Deloria. This is out of the area office?

Mr. Peso. This is out of the area office.

Mr. Deloria. What are they basing their $22 figure on?

Mr. Peso. This is what we would like to know. This is why we demanded a mill study, to find out what our timber is worth. A mill study is in progress right now and we are going to find out exactly what the price of our timber is worth. We have been asking for this and there was no way that we could know what our timber was worth until when they gave us the prices lower than what we were able to negotiate with the contractor, and these are supposed to be the experts. This is the thing that we have the complaint, that if we are going to deal with our timber, we need some experts to take care of the timber.

Mr. Deloria. Who has negotiated contracts in the past, the Bureau or the tribe?

Mr. Peso. The Bureau and the tribe. They have worked together on these. Every time that something comes up, they suggest that the tribe go ahead and give them an extension. Lower the price for them, and it is always in favor of the contractor. The tribe has never had the advantage of getting a higher price for their timber. Now the tribe has finally put in a resolution, and they got a mill study set up, so when we do find out the exact cost of our timber, then at least we will be able to deal in a businesslike manner.

Mr. Tonasket. Does your agency have a forestry department?

Mr. Peso. We have a forestry department and the forestry department is at odds with the area office and they couldn't agree on a price, either.

Mr. Tonasket. I was more interested, first of all, in the slash problem, the nondeposit, inventory, those sort of situations, which normally agency forestry departments handle.

Mr. Peso. We do have an agency forestry department. They have been handling this ever since we have been selling timber, but these are the problems that we have encountered. The slash problem has been a continuing problem and there are letters, resolution after letter, on the problem.

Mr. Tonasket. What would you blame the problem on with the agency level?

Mr. Peso. Lack of know-how is what I would say. I think possibly if they had a continuing type of training and bring them up to date as to what is happening, then we wouldn't be having these problems.

At the present time there is no technical assistance. We can ask even the civil service for assistance in training, but most of their training is in management, in clerical and what-not.

Mr. TONASKET. In your mind do you have a sufficient number of forestry employees? Are they understaffed besides not being trained well enough?

Mr. PESO. They are hard to get. We have had advertisements out, and we have not been able to fill some of the top positions with qualified people. If we could get the ones that we do have trained periodically to at least maintain the minimum standards, then we would have some protection for our timber also.

Mr. DELORIA. Are you charged a portion of your timber receipts by the Bureau of Indian Affairs for administration?

Mr. PESO. Yes; we have the same 10 percent charge.

Mr. DELORIA. You are paying 10 percent of your timber receipts for the privilege of taking $13 less for timber. Is that right?

Mr. PESO. The 10 percent is taken off and then this is returned to the tribe and we have been able to utilize that in the purchasing of equipment and however we could use it to develop our forests. But this is aside from the technical advice that we should be getting. We need people with more expertise to tell us. The people in the area office are supposed to let us know how to sell our timber, and how to deal with it. Yet the Council has to overrule what they are doing so we can get a better price.

Mr. MACDONALD. Gentlemen, I wish, if I might, to make a brief comment here. I am here by courtesy of the Mescalero Apache Tribe and solely to assist the official Mescalero delegate in the presentation here. The situation with the timber problem at Mescalero has resulted in a number of problem areas that seem to be surfacing at this time and seem to be occurring not so much as the fault of the system so much, but seems to be occurring, as pointing out other problems, gaps, weaknesses in the management structure.

[Senator Abourezk resumed the Chair.]

Chairman ABOUREZK. Whose management structure?

Mr. MACDONALD. The entire Bureau resources management structure, all the way from the top to the bottom. The most recent problem occurred here in the lack of deposit, the slash, this type of thing, first of all from a staff, agency forestry staff, that is not adequately trained in timber contract management. The Bureau does not have an ongoing, continuing training program.

Chairman ABOUREZK. Why not?

Mr. MACDONALD. I don't know.

Mr. DELORIA. Weren't they qualified when they were hired?

Mr. MACDONALD. Yes; they are qualified by academics but that isn't enough. When you have a forester who has been in the field for 10 years or even 2 years or 1 year, after that period of time that forester should be updated.

Chairman ABOUREZK. In other words, he is not qualified. It doesn't matter what kind of degree he has, if he doesn't know his business he is not qualified.

Mr. MACDONALD. Right. It has to be continuing. As far as I know, the biggest percent of the foresters do not go through this type of thing.

I don't think there has been a forester since I have been at Mescalero. Freddy would know better than I how long it has been since we have had a forester who has attended a professional training course in timber management, in contract management, that relates to the modern-day situation.

Mr. Deloria. Do you receive any technical assistance from the Forest Service?

Mr. Peso. Not directly; no.

Mr. Tonasket. What would you estimate the mismanagement of your forest resources cost per year, your tribe?

Mr. Peso. In the last recent incident, timber was cut, timber was removed from the reservation in the amount of $100,000. It is hard to say just what the loss would be.

Mr. Tonasket. Do you think it would be possible for your tribe to get us an estimate for an annual loss because of mismanagement?

Mr. Peso. The slash alone would run around $30,000 a year. I think we could, yes.

Mr. Tonasket. I would like to request that that be done.

Chairman Abourezk. Yes. Would you provide that to Task Force No. 3?

Mr. Peso. Will do.

Mr. Goetting. Fred, I have a question. I don't know whether you might want to answer it or not, but do you know if the Mescalero Apache Tribe has a position with regard to the structure of Indian affairs, as to whether they feel it is at the proper level? You have no doubt heard some of the comments and recommendations that have been made by witnesses before you. Do you have a position or do you know if you have a position?

Mr. Peso. We have submitted other documents to the Commission.

Chairman Abourezk. What is that position?

Mr. Peso. We each deal with a different type. I would hesitate to say at this point what my position would be on that, because I haven't really been involved with the committees that would be working with that.

Chairman Abourezk. Do you have a position on whether or not the BIA should be a separate agency?

Mr. Peso. Yes; I think it should be a separate agency.

Chairman Abourezk. What do you think about moving the BIA out of Washington and closer to the Western States?

Mr. Peso. I see nothing wrong with it. I think it would be closer to where the tribes would be able to reach and get the more assistance that they would have.

Chairman Abourezk. What about abolishing the area offices and having the agency superintendent deal directly with the central office?

Mr. Peso. The area offices, with some of the technical assistance that is supposed to be available, if funds are made available to the tribes to contract that assistance, then this would be fine, and have the central office moved into the field also would be good.

Chairman Abourezk. Do you believe the Mescalero Tribe, for example, could function as its own decisionmaking agency rather than having the Bureau of Indian Affairs or area office making decisions for the Mescalero Tribe?

Mr. Peso. Definitely.

Mr. Deloria. Does your tribe do much contracting with the Bureau?

Mr. Peso. We have seven contracts, and these are all in the field of personal assistance to the people. That is employment assistance, and credit, this type program. As far as contracting any of the other services, there has been no attempt.

Chairman Abourezk. Have you heard of any threats to your tribe or any other tribes by the BIA, by any official of the BIA not to testify here today?

Mr. Peso. No.

Chairman Abourezk. Have you heard of any?

Mr. Peso. No. The first I heard of it, when it was mentioned here.

Chairman Abourezk. Any other questions?

Mr. Peso. I have one more item I would like to go into. This is in the trader's license. The issuing of the trader's license, which is also by authority in 25 U.S.C. 261, for people wanting to serve, have services on the reservation, we have encountered problems within this area, whereas we are in a lawsuit with the State of New Mexico, also. The issuance of a trader's license to the people constructing the Inn of the Mountain Gods are being taxed by the State of New Mexico, and inadvertently the tribe will have to pay those taxes to cover the losses of the contractor that worked on the reservation on the Inn of the Mountain Gods. The trader's licenses were issued by the Bureau to assist the tribe so that we could get people to do the work economically to the tribe and to the contractor, while the licenses were issued, the tribe advised the Bureau that these individuals would be working on the reservation and should have a license, and when the licenses were issued the personnel involved in issuing the licenses put the tribe on the spot where now the tribe has to defend itself within the State of New Mexico as to how the licenses were issued and as to what authority the tribe had in getting those things issued, which is supposedly a responsibility of the Bureau of Indian Affairs to handle, the way they see fit it should be handled and the tribe is put in the position to defend the issuance of the trader's licenses.

Mr. Deloria. Are all businesses on the reservation licensed?

Mr. Peso. The tribe has asked that they do be.

Mr. Deloria. But they are not now?

Mr. Peso. I don't believe so.

Mr. Deloria. Is the tribe also licensed, have its own licensing system, or any other kind of permit system?

Mr. Peso. Permitting anyone to come on the reservation; yes.

Mr. Deloria. At what level is the licensing of traders, is that the agency level?

Mr. Peso. This is at the agency level, with approval from the area office.

Mr. Deloria. What department?

Mr. Peso. This is handled by the realty office now. We didn't have one for awhile.

Mr. Deloria. The realty office licensed traders?

Mr. Peso. Well, this is a branch within the Bureau that takes care of it, the superintendent has the authority to issue them.

Mr. Deloria. What is the involvement of the area office in that process?

Mr. Peso. Approval, I believe. I note on this letter written to each one of the contractors that were going to do business on the reservation, the letter was sent out by the superintendent, who said, "In accordance with instructions from the Mescalero Apache Tribe." The tribe does not instruct the Bureau to do anything. The tribe requests that the Bureau assist them.

Mr. MacDonald. Gentlemen, I am not sure if my point is clear here; clarification is in reference to the court case that the State of New Mexico has against the tribe for the collection of gross receipts for the building of the inn, from the contractors who built the inn. The State is challenging the validity of the Bureau issuing the license, contending that the tribe instructs the Bureau, therefore, then, that is not specific congressional intent, and by law the BIA has that specific congressional intent by Congress to issue the license.

Mr. Deloria. Who came up with this wording, "Under instructions of the tribe"?

Mr. MacDonald. BIA letter that came out of a branch of social service.

Mr. Deloria. At what level?

Mr. MacDonald. I don't really know.

Mr. Deloria. It was before your time?

Mr. MacDonald. Yes.

Mr. Deloria. You don't know whether that is the area office or the central office?

Mr. MacDonald. I really don't.

Mr. Deloria. But this draft was developed——

Mr. Peso. I don't know.

Mr. MacDonald. Could have been the agency, for all I know.

Mr. Deloria. Has there been any attempt made to withdraw those letters and issue different letters? I guess that wouldn't affect the court case.

Mr. Peso. It wouldn't affect the court case, no.

Chairman Abourezk. Is that your final point?

Mr. Peso. This is my final point.

Chairman Abourezk. Any other questions?

Commissioner Dial. Yes, I have one question, Mr. Chairperson.

Chairman Abourezk. Mr. Dial?

Commissioner Dial. Do you have any feeling at all on whether or not the Government should spend any dollars, appropriate any funds on so-called "nonfedrally recognized people"?

Mr. Peso. I am not following the question.

Commissioner Dial. Well, my question is, I will repeat it: Do you have any feeling—we are speaking here of dollars, you know, and there seems to be a shortage of dollars, right?

Mr. Peso. Right.

Commissioner Dial. Not enough funds to go around in the way of economic development for reservations, and so forth. My question was: Do you have any feelings in general, or what is your position, or do you care to state it—maybe you don't care to state it—as to whether or not the U.S. Government should spend or appropriate any funds for any kind of programs on nonfederally recognized tribes?

Mr. Peso. On nonfederally recognized tribes?

Commissioner **Dial**. Yes.

Mr. **Peso**. I would rather have a statement from the tribe other than myself answering that.

Chairman **Abourezk**. If that is it—Sam?

Mr. **Deloria**. I think maybe it would be worthwhile to say, and I am sure the chairman of the Commission and the Commission itself would agree with this, that is, the BIA superintendent has attended, I assume, at the request of the tribe, has accompanied the tribal representative, and I think we are probably equally interested in whether he receives any reprisals from within the Bureau of Indian Affairs for his attendance at this hearing. I hope he will let us know if there are any problems.

Chairman **Abourezk**. Yes; I would request that information.

Mr. **MacDonald**. I will be glad to let you know.

Chairman **Abourezk**. If anybody in the room knows of any tribe or any person who has been threatened by the BIA about testimony here, I think it is probably a violation of Federal law for that threat to take place, and I would be delighted to find out who did it. I will conduct an investigation and seek to have criminal charges brought against anybody threatening a potential witness.

Mr. **Goetting**. Mr. Chairman, I would like to ask you if that applies also to testimony that we may ask a task force other than a Commission hearing?

Chairman **Abourezk**. Absolutely.

Mr. **Goetting**. Thank you.

Chairman **Abourezk**. The task forces are an instrument of the entire Commission and the Commission is an instrument of the Congress. It is official on any level. I think it would be a very undemocratic and un-American think to have that kind of threat take place. I want to see that it comes to an end. So I would like to thank you very much for your testimony, both of you.

Mr. **Peso**. Thank you.

Chairman **Abourezk**. The hearings will be in recess until 1 o'clock promptly.

[Whereupon, at 12:10 p.m., the hearing was recessed until 1 p.m.]

AFTERNOON SESSION

[The hearing was resumed at 1 p.m., Commissioner Adolph Dial, presiding.]

Commissioner **Dial**. We will resume the hearing at this time. Is Mr. Frank Lawrence in the audience? Will you come forward, please, and bring anyone you care to along?

Mr. Lawrence, will you introduce your friend, please, sir?

Mr. Lawrence of the United Sioux Tribes of South Dakota.

STATEMENTS OF FRANK A. LAWRENCE AND MS. ELNITA RANK, UNITED SIOUX TRIBES OF SOUTH DAKOTA

Mr. **Lawrence**. With me is the chairperson of the United Sioux Tribes, and also the chairperson of the Crow Creek Sioux Tribe. She will be presenting the majority of the testimony.

Commissioner **Dial**. Thank you. You may proceed.

Ms. RANK. My name is Elnita Rank. I am the chairperson of the United Sioux Tribes as well as the chairperson of the Crow Creek Sioux Tribe, and with me is the executive director of the United Sioux Tribes, Mr. Frank A. Lawrence.

I am not going to read all the testimony because you will be presented with a copy, I understand, as soon as some become available.

It is our pleasure to present this testimony in behalf of the United Sioux Tribes. The United Sioux Tribes present this testimony with strong feelings of ambivalence regarding the present structure of the Bureau of Indian Affairs. However, the United Sioux Tribes take the following positions and attitudes on the Reorganization issue of the Bureau of Indian Affairs.

The U.S. Government, through history, has negotiated many treaties with Indian people. These treaties have committed the Federal Government to the protection of certain rights and the fulfillment of certain obligations. U.S. Government has a moral and legal obligation to give commitment stature and attention to the principals of these treaties. The proper authority, respect, and resources must be delegated to the Bureau of Indian Affairs through the Commissioner to be more effective in carrying out treaty rights.

The Bureau of Indian Affairs, viewed from an Indian tribe, can best be described as a maze of confusion, contradiction, inconsistency, and fragmentation. This has resulted in many Federal actions which are interpreted as deliberately detrimental to Indian progress.

The administration portion of BIA services must be molded into an adequate structure with functions relevant to the needs of the Indian tribes. The BIA must be allowed to function as a separate agency with cabinet status so as to eliminate interference of other interest.

The following comments and suggestions for reorganization of the BIA will not only improve the delivery system, but will allow Indian people an opportunity to be involved in the decisionmaking process.

1. Tribal input must be involved at all levels. This can be accomplished by establishing agency policy, advisory and review boards made up of tribal officials.
2. Eliminate the Denver and Albuquerque offices, with the central office to remain in Washington, D.C. This restructure will eliminate the duplication and fragmentation that exists within the central offices of the BIA.
3. Provide only minimum functions at the Washington level. The maximum of personnel, budget, and functions should be transferred from Washington, Denver, and Albuquerque to local agencies.
4. The number of area offices can be reduced to eight. The function of those area offices that are eliminated can be absorbed by the agency offices.
5. Offices of intergovernmental relations must be created at the Washington and local levels. This will allow the coordination and dissemination of information of other agency programs. This coordination and information flow will provide a constant exchange of ideas to improve the program development, self-determination, and administrative capabilities of tribal government.
6. The agency levels should be given more authority and responsibility for decisionmaking in all program areas. The agency level must

have the administrative capability to provide service and response to the needs of tribal government.

7. The area office should develop a resource pool of technical assistance with service as its main objective. This should be done by redirecting the role of the area office from program management to a role of technical support for tribal governments and agency levels.

8. The agency levels must have budgetary responsibility together with program responsibility if the BIA is to respond to the needs of Indian tribes. The central office level will have limited budgetary adjustment authority with priorities established from an advisory group.

9. All funding sources for Indian programs must be channeled through the "new Department of Indian Affairs" under a block grant system when possible to insure that funds are not used to manipulate tribes. Tribes must be allowed to use funds to contract for services that are not available locally. They should also be allowed to match funds with other tribes when similar problems exist.

10. A procedure for special appropriations must be established for tribes that need additional funding for extraordinary circumstances.

11. Regulations and policies established must reflect the unique cultural aspects of a given area.

The opportunity for self-determination must exist. This opportunity can only come about with input at all levels of decisionmaking. With the responsibility of this decisionmaking, better administrative capabilities will develop with the tribal officials. This input will allow for continuity and the flexibility needed for ongoing development. With the establishment of these advisory and review boards each level of the BIA would be responsible to Indian needs rather than just the local agency level as it now exists.

Establish a national advisory and review board to the Commission on Indian Affairs.

Establish an Intergovernmental Relations Unit at the central office level with an Indian advisory board to insure proper coordination of other agency programs.

Establish an advisory board at the area office to insure that the technical assistance and services provided at this level are meeting the needs of the local people.

That is as far as I will go and the rest I will submit. If you have any questions——

Commissioner DIAL. Any questions?

Mr. GOETTING. I would like to ask one question. In terms of the recognition of needs of the tribes: Are you suggesting the possibility of change of a budget process so that the tribes themselves would have the origination of the development of their budgets through the agencies?

Ms. RANK. Yes.

Commissioner DIAL. Ms. Deer?

Commissioner DEER. Not at this point.

Mr. DELORIA. I wonder if you have any suggestions? It seems to me one of the facts of life that have to be recognized is: There is unlikely to be enough money in any given year from Federal sources to meet all the needs of every tribe. So that means someone has to go through a process of decisionmaking when the amount of money available falls short of the need. I think everyone agrees that the tribes should be involved in that allocation process as much as possible.

What I am having trouble understanding, and I wonder if you have any suggestions, there are about 275 federally recognized tribes—in that area—and for the appropriations committees or the Office of Management and Budget to meet with every single tribe to work out a budget obviously creates some management problem just in terms of time. Do you have any suggestions on how Indian tribes can be involved in the making up of the Bureau budget, Indian Health Service budget, and other Federal agency budgets for the Indians at the national level? Do you have any suggestions on a structure for that?

Mr. LAWRENCE. Sam, probably the national level is basically the major concern. I think when you deal in decisionmaking on any given program, as far as regulations or for budgetary, I feel basically that a group could be established to advise the decisionmakers as to priorities. The mechanism could reflect the total needs of the tribes as they are presented and let OMB or the budgetary people make up the decision as to what kind of moneys they will allow, as they do now.

It is very difficult to say that if the Department was a separate issue, that it could be allowed to make its decision on budgetary matters. We all know the Office of Management and Budget does have major control over budget, but I believe that the needs of the tribes are not really being reflected in those budgetary requests on the national level simply because they do go in as line items.

Many of the needs are not spelled out in the budgetary kinds of requests. Basically if we could spell out the needs a little bit better on the national level as individual tribes, I am not saying a document that is 300 pages thick per tribe. But I am saying there should be small reports that can reflect the needs, to insure that their needs are brought forth to the decisionmakers and not just a budgetary kind of outfit where they have line item kinds of budgets submitted to the Congress.

This is the major problem. Anybody can look at a budget and say, "You don't need money here, you don't need money there," without having documentation as to what the needs are. These things need to be reflected in the kind of budgets that go forward at the national level.

Mr. DELORIA. Do you feel that the Bureau of Indian Affairs is adequately protecting the resources of the tribes in your area? Are you getting assistance in planning for resource development, for example?

Ms. RANK. I would have to answer that question, Sam, just for the Crow Creek Sioux Tribe because that is the only one I am familiar with. Yes; we do get financial funds to assist us in taking care of our natural resources. However, this just began within the past 2 years. Of course, like any other program we feel that we don't get enough, but they have been assisting us; yes.

Mr. LAWRENCE. Sam, to add further to her comments: I really don't feel the Bureau has really taken a stand in protecting the rights of the tribes in resource development or any other area. Recently we have dug up some facts that the Bureau of Indian Affairs has not notified the tribes of some of the kinds of development that are going on in reference to water rights in our area.

These things come up constantly. The Bureau has failed to recognize the needs of the tribes in dealing with the problems of water rights. The Bureau takes a back seat. I think basically the reason they do is because the Interior Department is involved in many of these transactions. The Interior Department, as a trustee, fails to recognize and fails to inform the tribes of what is happening in their area. I am talking about, basically, the Oahe irrigation project.

Mr. DELORIA. Will that irrigation project benefit the tribes at all?

Mr. LAWRENCE. At this point I think the tribes are saying it won't, because it will subtract quite a bit of the water from the area, and the environmental impact has really not clearly defined the needs of the tribe. Too often the States whitewash the environmental impact statements and the tribes are left out and the Bureau does not take any steps to assist in these areas.

Mr. DELORIA. Have the tribes received any assistance from the BIA or any other agency to develop tribal positions on these issues, to develop alternatives or any kind of tribal plans for the use of water?

Mr. LAWRENCE. No.

Mr. DELORIA. Have they been requested to?

Mr. LAWRENCE. I think formally, no; through meetings, they have. Through conversation with area offices we have had some requests of the area's position, to inform the tribes, although nothing has been forthcoming.

Ms. RANK. The federation that most of the tribes belong to helped on this, too, Sam. It was through meetings with the federation that some of us met with Aberdeen area officials to get something done, as far as natural resources are concerned. So they just started, but it is moving real slow.

Mr. LAWRENCE. I would like to respond to a question that was asked this morning about the central office being located in Denver. I think many of the tribes have to weigh the benefit factor when dealing with this issue. I think Denver is a place where it is more convenient to the tribes, but many of the things that are happening are happening in Washington—legislative and other programs are being coordinated. The decisionmaking is in Washington. I feel it is very inappropriate to really consider that kind of thing until more authority is put out in the regional office.

It is like the area offices really saying: Should we place more responsibility out there in the area office? I feel it is just a stalling tactic kind of thing to say: "We are going to give the area office more authority," but really they don't have authority. So I think any kind of regionalization is kind of detrimental to a lot of progress.

Commissioner DIAL. What would you say about, say, the central office in Washington, and two offices, maybe one East and West, relating to the central office?

Mr. LAWRENCE. I don't think the tribes would see that as a viable concept because of the area office kind of mess we are in now. It only detracts from the real issue. The real issue is getting to the decisionmakers and getting some decisions from them. Direct-line authority between the Washington level and the local level is automatic and it is necessary.

Commissioner DIAL. You would favor a separate department, with Cabinet status, and with a Secretary located in Washington: Is this what I hear you saying?

Mr. Lawrence. Exactly.

Commissioner Dial. Any other questions?

Commissioner Deer. Yes. You mentioned the fact that the Bureau has not protected adequately some of the resources in your area. We would be interested in having a detailed documentation of this because this is one of the purposes, to document the inadequacies.

Along with that, then: What would you suggest to improve this, and to adequately protect the water and the land?

Mr. Lawrence. Well, basically by giving the Secretary a little more power. As the present structure is, all of the authority is within the Secretary of the Interior's hands, and outside interests—big oil companies and big money—usually influences that office in making its decisions. By providing the new Secretary of Indian Affairs office with a legal arm to fight some of these things is what is needed, he needs more authority to deal with it.

At present it is very difficult to get the solicitor's opinion or get the Justice Department to act on some of the requests that are going into the District of Columbia. We do have documentation on the water rights issue and on the jurisdiction issue, that we feel the area offices and the central office has not adequately supplied the necessary services for the tribes.

Commissioner Deer. You can provide this to us?

Mr. Lawrence. Yes; we can.

Mr. Deloria. Do you feel that the area office serves any useful function in interpreting policies appropriately to the tribes of that region? Does it serve any function like that at all?

Mr. Lawrence. My experience in dealing with some of the other tribes: No, it doesn't. I am dealing with one right now, with the Flander Tribe, on which all decisions have to be made at the national level. I found out yesterday that the Commissioner had said that the area directors had the authority. Yet this authority is being pushed around and passing the buck has really kept the tribe from developing what it really needs. So I don't think it is able to establish the kind of policy that is needed in the area.

Mr. Deloria. Does the area office serve any function in saving funds or effort by centralizing housekeeping functions such as personnel and accounting and payroll? Does it do that at all?

Ms. Rank. No.

Mr. Deloria. Can you identify any function that the area office serves that is beneficial, just right off the top of your head?

Mr. Lawrence. I can, but I will probably stumble through that.

Mr. Deloria. Don't feel obligated to. Don't make something up you don't want to say.

Mr. Lawrence. No; I feel the area offices do have a function, basically, of technical support for the tribes in a very limited fashion.

Mr. Deloria. Do they receive technical assistance from the area offices?

Mr. Lawrence. They do but it is not the kind of technical assistance the tribes need. The tribes are probably more able to handle the technical kinds of things that the area office already has. I am saying that it could have, in areas, if the tribes were able to develop policies for that office.

Mr. Deloria. With the present staffing and personnel, if the Commissioner tomorrow redefined the area office's function as one of technical assistance, would the tribes call on the people there for technical assistance? Do you think the tribes would?

Ms. Rank. If they qualified.

Mr. Deloria. If they qualified. The present area office as it is now, they would?

Ms. Rank. Some do and some don't, most of them don't. I will argue with Frank on that.

Mr. Goetting. Actually, what you are saying is: The area office is designed organizationally something like the central office and that what you need in the way of technicians and technical experts are really not in that organizational function, they are something separate and apart. I think the Northwest Affiliated Tribes this morning said they needed a geologist or maybe an agriculturist, or something of that sort, a forester, somebody of technical capabilities that are not now standard positions in the area office; is this what you are saying as well?

Ms. Rank. Yes; along with that they would have to employ qualified personnel to handle the position. Take, for instance, if we need a person to give us technical advice in, say, a tribal election, there should be someone sent down who is familiar with those procedures rather than send us someone who has already been aboard for only about 2 to 6 months.

Mr. Goetting. The type of technical assistance you are talking about now you are saying is not now employed at the area level?

Ms. Rank. Yes.

Mr. Goetting. I would like to carry on one other problem here. While you have been talking about that I have scanned the rest of your presentation. There is an area in there that really bothers me a little bit in respect to the manner of BIA interference with tribal government. Would you care to explain a specific instance of situations that might be represented by that general statement you have made?

Ms. Rank. I will let Frank answer.

Mr. Lawrence. One incident, and I think probably the group coming up this afternoon can elaborate on it, is in the Rosebud area where the tribe has developed resolutions to certain changes. These changes went on to Aberdeen and they say that they don't have the authority, and it goes on up to the Washington level and they say they don't have the authority.

Mr. Goetting. Changes in what?

Mr. Lawrence. Changes in the constitution. and changes in the code that they are developing. This finally ends up on the Secretary of the Interior's desk, which takes anywhere from 3 to 6 months to respond because the Solicitor is too busy to react to the request. This kind of interference, because they do not have the kind of authority that they need to made decisions. The authority may be given to them but too often they pass the buck on up the line.

Mr. Deloria. The Bureau people have said they don't have the authority to approve this, or they said the tribe doesn't have the authority to take the action that is taken?

Mr. Lawrence. The Bureau says it doesn't have the authority to take the action.

Mr. DELORIA. The Bureau says it doesn't have the authority to approve the tribal action?

Mr. LAWRENCE. Yes.

Mr. DELORIA. Do Bureau personnel at the local level cooperate in implementing actions of the tribal council or the tribal government?

Ms. RANK. In some tribal agencies, yes; in some, no. Take, for instance, I don't know whether it is because I am a woman or not, I get very good cooperation with the acting superintendent I have, and, of course, the previous superintendent I had had some difficulties with his personal life.

This is something we as tribal chair people throughout the United States, or as far as the United Sioux Tribe is concerned, have discussed. Usually when you have a problem with a Bureau employee at the local agency level and the tribe wants to get rid of that person, they move them on upstairs where they have better control over you. It goes from the agency level to the area level, and from the area level on up to central office. So it makes it very difficult, but in some agencies, yes, there are problems, and in some there are not.

Commissioner DEER. I would like to ask a question about your opinion of band analysis. There was quite a lengthy discussion this morning by previous witnesses, and I noticed you have just made some general statements about the budgetary process here. Would you comment whether you think this is effective? Is it helpful? What is your feeling?

Ms. RANK. To me, bank analysis is just some form of papers that you have to fill out every year and send in, because you make a decision, like today, of whether you need $50,000 to cover your road system, and that goes into effect in the year 1978, and with the inflation costs by the time 1978 gets here you probably would need $150,000 rather than $50,000.

I think the band analysis should be made on a year-to-year basis rather than 2 to 3 years in advance. Band analysis to me is just a bunch of malarkey. That is just my personal opinion.

Mr. DELORIA. Do you have an opportunity to revise your input into the band analysis if you change your mind 6 months later or a year later? Can you go back to that, or are you constantly working 3 years in advance?

Ms. RANK. We are constantly working 2 to 3 years in advance and we don't have an opportunity to change it.

Mr. DELORIA. When the Bureau determines how much money it will be able to provide in reference to the band analysis of the particular tribe, are you informed? How are you informed and by whom? Who makes that kind of decision, and how does the process work after you once work out a band? Do you ever hear about it again?

Ms. RANK. No; not until it is completed. The band analysis, I am sure you are aware of the process, it is supposed to come from the grassroots Indian, then up to the area office, then on into central office, from central on into the Office of Management and Budget. But what you usually do when you set and make out your band analysis, you set those figures high enough in an area that you think you will need to work on, and by the time it gets back to you it is cut considerably. But they have been making some changes the last year or so. They will come and say, "Well, your tribe is going to get, maybe $4 million worth of band analysis," but there are some items in the budget you can usually juggle around. But in some areas, take, for instance, social services, you cannot take that money and use it maybe if you are short on law and order, or vice versa.

Commissioner Dial. Do you have enough people for technical assistance—specialists in various areas in regards to forestry or agriculture, and so forth—to do quite a bit of you work right? Could you find the people within your own tribe, or do you need a program set up with some university with special scholarships to send these people away to take training and return to the reservation?

Ms. Rank. For my tribe, you mean, or for all of them?

Commissioner Dial. Well, in general and for yourself.

Ms. Rank. Again I would have to speak for Crow Creek. In some instances we do have qualified personnel, and some others we would probably have to go off the reservation to employ key and qualified personnel to run the operations that we take under our wing.

Commissioner Dial. If you had available funds could you find enough people who were interested enough to go away for, say, university study to return to your people to work so you wouldn't have to go some other place looking for it?

Ms. Rank. The answer to that question would be yes.

Commissioner Dial. So you feel this is needful?

Ms. Rank. I will take any kind of funds you can give me.

Commissioner Dial. Any other questions? Jake?

Commissioner Whitecrow. No questions.

Commissioner Dial. Do you have something else?

Mr. Lawrence. I just wanted to mention the structure of the educational system. Our educational component within the Bureau of the Budget is probably one of the largest items—it is the largest item—and I feel that for the education that the children are receiving it is very minimal in a lot of cases. I feel that a foundation program on a direct funding basis to the reservation would eliminate a lot of the problems that now exist.

For example, in many of the schools there are civil service personnel teaching. These people get anywhere from $10,000 to $16,000. With that kind of money you could buy two teachers in many States.

Commissioner Dial. Right.

Mr. Lawrence. I feel the local schools have to have parental involvement and need some kind of control at the local level to be able to contract for these positions instead of putting them in a civil service status.

Commissioner Dial. Thank you.

Commissioner Whitecrow. I do have a question, Mr. Chairman.

In regard to that statement that you just made, taking the civil service, so to speak, out of the educational system, I have heard this comment on many occasions this past 6 or 7 months. Do you feel that would be the answer? Eliminating the civil service employment for teachers and putting the teachers under contract, making them responsible to the local board?

Ms. Rank. I would like to respond to that. If we take civil service out of education in the Bureau of Indian Affairs department, yes, it would help. A lot of times you get a civil service employee who is not doing his or her job properly. As a result, the only one that suffers from that is our children. We have—and I criticize our Indian department as far as education is concerned—a lot of times teachers will just socially pass our children. They reach the high school level and graduate from high school with a diploma in their hand and enter a college, and they are not qualified to go into that college. They are way behind in their courses. Taking civil service out of education, as far as that goes, taking civil service completely out of the Bureau of Indian Affairs, would help greatly. Then you could get rid of all your deadwood that you have and get somebody in there that will work for the Indian people.

Commissioner WHITECROW. How do you feel about placing the Bureau of Indian Affairs under a special congressional commission with a group of Indians elected from the Indian community appointed by Congress to serve as Commissioners of Indian Affairs under the Congress of the United States with an executive director responding to them? This is in the entire administration of the Bureau per se——

Ms. RANK. Like the county system?

Commissioner WHITECROW. The same type of a Commission such as we have here on a national level——

Ms. RANK. On a national level?

Commissioner WHITECROW. On a national level, that would handle the affairs of Indians dealing directly with the Congress?

Ms. RANK. That would be all right, but the next thing you know how us Indians are, we would get so jealous of one another, deciding who is going to be sitting on that board and who is not doing a good job and who is doing a good job. You would probably have to work that out. I don't know about the congressional business.

I think what we should do, what I would like to see done, of course, this is my own opinion again, is to have a separate Indian department, one all of its own and funded separately by Congress for us. Then work out a mechanism where we can all maybe sit down at the table and try and say who is going to get how much money, so forth and so on. Kind of an advisory board type, or maybe have a congress all of our own to govern us.

Mr. GOETTING. Carrying on the education point for a few minutes: How many BIA schools do you have in the jurisdiction in which you serve?

Ms. RANK. In the Aberdeen area, or just Crow Creek?

Mr. GOETTING. Crow Creek.

Ms. RANK. Crow Creek, I have one grade school and the high school is operated by the tribe.

Mr. GOETTING. The tribe's high school. Does it have the same faults? Do they use civil service employees?

Ms. RANK. No.

Mr. GOETTING. Do you think the high school graduate from that school is better equipped to enter college than the one out of a BIA high school?

Ms. RANK. It will be eventually, but right now—we just went into contract as a high school not too long ago—we are getting the kids that have been socially passed. We have children in the seventh and eighth grade who do not even know how to write their names yet. So we have to take them back and reeducate them.

Mr. GOETTING. What sort of available public schools are in the area?

Ms. RANK. We have one that is in Chamberlain 22 miles away.

Mr. GOETTING. Do they bus children to that school, those who go?

Ms. RANK. Yes, if they wish to attend that school, yes. But most of the Indian children attend our grade school.

Commissioner DIAL. Do you prefer your own schools over the public schools?

Ms. RANK. What do you mean, do I prefer my own school to a public school? I would have to answer: my school, to stick up for it.

Commissioner DIAL. This is what I am saying: Do you prefer an all-Indian school over the children being integrated into a public school?

Ms. RANK. I don't think there is any place, as far as Crow Creek is concerned, where there is an all-Indian school. The majority of them may be Indians, but there are some minorities that do go there.

Commissioner DIAL. Thank you for a good report, Ms. Rank and Mr. Lawrence.

Next, a representative of the Tlingit-Haida. Will you come forward? Will you give your name and position and introduce your guest, please?

STATEMENTS OF ELIAS REYES AND VENTURA SAMANIENGO, TLINGIT-HAIDA INDIANS

Mr. REYES. My name is Elias Reyes. I am a Tlingit from southeast Alaska. Presently I serve as administrative manager of the Southeast Alaska Agency, which is our contract vehicle for providing Bureau services to our people.

With me is Ventura Samaniego, who is our housing officer.

I am making the statement in behalf of Raymond Paddock, president of the central council of the Tlingit-Haida Indians who was unable to attend.

I would like to depart from our testimony as it has been submitted, and cover basically three areas where we have concern. The central council supported the Indian Self-Determination Act and we thought it was a new landmark in the development of American Indian policy.

One of the areas that we do have concern in our contracting with the Bureau of Indian Affairs: We felt we were contracting for the management of the southeast Alaska agency, and we found the Bureau putting us in a position where they are managing the services provided through the Bureau through a contract because they are inflexible in letting go of the management tools that they have provided in BIA manuals. In every contract that we have developed with the Bureau of Indians Affairs they incorporate the manuals that the Bureau uses for management and expect us to follow through, utilizing the same Bureau manuals.

We feel that management is a risk. We would like to take the Bureau manuals and put them where they belong and manage our programs, taking the risk and utilizing the published rules and regulations.

We feel that the Bureau has some responsibilities. However, the central council doesn't feel that the Bureau manuals should be a part of our contract.

Mr. Deloria. Is this a Public Law 93–638 contract?

Mr. Reyes. No; it is a "Buy Indian" contract.

Mr. Deloria. Are you going to convert it to a Public Law 93–638 contract?

Mr. Reyes. We were told we will convert it to a Public Law 93–638 contract.

Mr. Deloria. Do you think, from what you understand about the conditions of that contract, that you will be able to avoid this problem under Public Law 93–638, or you don't know yet?

Mr. Reyes. Presently we don't think so.

Mr. Deloria. What kind of management requirements are you talking about that interfere?

Mr. Reyes. Personnel standards, determination of how travel will be conducted, who will conduct travel, accounting procedures, various number of things.

Mr. Deloria. Those are all dictated by the Bureau as part of the contract?

Mr. Reyes. The Bureau of Indian Affairs came out and said if we are going to have a social services program, that we will have an MFW on our staff, period. The Bureau of Indian Affairs and our housing program says we will have a housing officer that meets these types of requirements. The Bureau of Indian Affairs says in the employment assistance program that we will have this type of person on our payroll.

We feel that this is a management decision that we will determine who is best qualified to provide these services to our people.

Mr. Deloria. At what level is this? Is this the area office that says this or the central office?

Mr. Reyes. Area office level, and this goes into our other concerns, the grievance procedure; you go strictly all in the Bureau of Indian Affairs. By the time you get through the grievance procedure the contract year is over and you are negotiating another contract, and you are dealing basically with the same people because the grievance procedure is all in-house.

One of the other areas that we feel is restrictive is: The Bureau is allowing the accounting procedures to manage the Bureau of Indian Affairs, we feel. We feel there are a number of flexibilities in how dollars are appropriated and how they can be managed. By their inflexibilities in line items, and stuff like this, we are unable to determine where our dollars are going to be spent. We determine it 2 years ahead of time, and when it comes down to actually managing the programs, which is 2 years later, they are very inflexible. The times change in 2 years, and up in Alaska they change very rapidly. So the needs do not remain the same and the inflexibility that the Bureau has in changing our contracts makes it almost intolerable. We lose and we are not able to utilize the dollars that were allocated for services to Indians because of that very reason.

[Senator Abourezk resumes the Chair.]

Mr. Reyes. To show a specific instance, 2 years ago the Commissioner of Indian Affairs recognized that we ought to consolidate our education services into one branch—adult educational training, college student assistance, and adult education. All these dollars are line item dollars in their minds, and if we run over in one and don't spend in one, they do not let us move these dollars within these areas. The needs change and the area does not recognize it.

Personnel standards within the Bureau of Indian Affairs has been a concern with us. As it was testified earlier: The technical assistance that is required by the central council—we have not asked for any recently because every time we asked for somebody, they are oriented to the Bureau administration process as it has been in the past, and they have not had any change in their philosophy. So every time you get technical assistance it is geared to the Bureau of Indian Affairs manual. So we feel the Bureau of Indian Affairs manuals, the way they administer programs, are holding us up in that they insist that we use them as management tools, also.

The literal interpretation of local control has become a concern in southeast Alaska. We, in the central council, believe that we are a representative type government and we do have local representation on our council. We do recognize the independence of certain communities. However, if they elect to go along with us we feel that the Bureau of Indian Affairs should recognize this fact and not insist that programs be, well you might say, managed at the local level.

Mr. DELORIA. What kind of problem are you referring to? What is the process?

Mr. REYES. Regionalization, say, of an education program, where we have the communities, the education committees of these communities endorsing a concept of management, and the Bureau of Indian Affairs insisting that we have a resolution from each tribal governing body in southeast Alaska, which according to new Public Law 93–638 is numerous. In fact, we can hardly even count them all.

Mr. DELORIA. This is each tribe they are talking about or each community within the single tribe?

Mr. REYES. Each community has maybe three or four identifiable tribes, according to the act. You have the IRA Council, you have the village corporation, you may have a traditional native governing body, and you may have a State recognized community with an Indian board. So we have a number of people we can deal with, and it is awfully difficult to deal with all of them.

Mr. DELORIA. The Bureau says you have to deal with all of them?

Mr. REYES. You almost have to get a 100 percent OK from every tribal governing body that is in existence in Alaska.

Commissioner BORBRIDGE. Mr. Chairman, if I might, I would like to kind of nail that down. This means in any one community that the approvals you must receive could well number three or four or five?

Mr. REYES. Yes.

Commissioner BORBRIDGE. Has the area office indicated that it intends to take the responsibility of designating a particular body to be representative of the community for the purposes of approval under the Public Law 93–638 program?

Mr. REYES. We have been asking him to do this, and at this date this has not happened.

Commissioner BORBRIDGE. So you are left with having to seek several approvals at this time?

Mr. REYES. Either those approvals or take a chance and just get one and maybe have that not be recognized.

Mr. Goetting. But you do have a governing body for this whole group that is operating an office, right?

Mr. Reyes. We feel we do.

Mr. Goetting. But that is not recognized?

Mr. Reyes. We feel it is.

Mr. Goetting. I mean by the Bureau.

Mr. Reyes. In our mind it is recognized by the Bureau.

Mr. Goetting. But they won't accept decisions made by it to accomplish what you are asking?

Mr. Reyes. The area director will not.

On contracting, we have contracted the Bureau services in southeast Alaska. One of our problems in developing this contract was the division of what is contractable and what is trust responsibility. We have difficulty in this area. We have been assured that it will be worked out. However, in our minds, the indecision or the decisions that are not made to these types of problems are what hampers what we try to do. It is difficult to appeal a decision that is not made.

Chairman Abourezk. That is right.

Mr. Reyes. As far as the PPE band analysis system: We are just feeling comfortable with it and then they had a meeting in Reno and they changed the system a little bit. They took out, or we were notified that they took out, the higher education program, which we have utilized in southeast Alaska to some success. Presently we have some 400 students enrolled in colleges. We anticipate 65 will graduate this coming year. We have no problem about recruiting, in our mind, qualified people to help us operate these programs. We hope to go to the career education concept, and once again we are hampered. After we were developing this, in Reno they decided to take away the higher education program out of the band, so we do not know how it is going to operate. We have sent memorandums to the area director requesting some clarification.

We had some concerns when the Bureau of Indian Affairs put in the road program. One of the problems we had with roads was expressed earlier. If you gave priority to a road—it would wipe out our total $2.5 million budget in building 2½ miles of road—so we could not provide any services.

We feel that some type of system could be developed where if you need new programs, that there must be some means of getting the start-up dollars in there without hurting our other programs which we feel we still do need.

Previously in the system it has been the southeast agency position that prior to the establishment of a base, that we are not restricted to, the Bureau of Indian Affairs provided some services to southeast Alaska out of their area budget. However, they have refused to identify this to us so it would become part of a base. So as the day goes by and the PPE systems become more updated, they are more difficult to operate by.

Mr. Tonasket. Could I interrupt before you go past too far? Who is "they"? You said "they" refused to identify.

Mr. Reyes. The area office.

Mr. Tonasket. The area director?

Mr. Reyes. The area director's office. We communicate with the area director's office.

Chairman ABOUREZK. Who is the office?

Mr. REYES. Clarence Antioquia is the area director of the Juno area.

Chairman ABOUREZK. Is he the one who——

Mr. REYES. He is the one who is not answering our concerns.

Our testimony has been limited to the contract of southeast Alaska agency. More testimony is being developed and will be submitted to the committee here. We have developed testimony to present on our education concerns in Sitka.

Thank you. Any questions?

Chairman ABOUREZK. Thank you very much.

Commissioner BORBRIDGE. If I may, Mr. Chairman, before he leaves, just to wrap up some of this as I understand it: Although the central council as a tribal governing body for the Tlingit-Haida Indians of Alaska has had the opportunity now for several years to enter into a contract which enables it to administer the complete services previously performed by the Bureau of Indian Affairs southeast agency, the terms of the implementation of the contracting has been such that, as I understand it, the desire by the tribal governing body to be innovative and efforts made to determine priorities from within the tribe in the true sense of self-determination, in fact have run into roadblocks on a number of occasions. What you are saying, in effect, is that it is difficult, if not impossible, to achieve the tribal priorities. It is also difficult, if not impossible, to even try to be innovative in terms of the contract. As I further understand it, the posture of the Bureau is that you are merely stepping into their shoes to perform the contracts and services the same way that they have with all of the inefficiencies and all of the waste. Is that basically a correct statement?

Mr. REYES. Yes.

Commissioner BORBRIDGE. If I may, for the record—having been president of the central council when we first entered into this contract—one of the first things that occurred is that after much resistance, the council was successful in removing the superintendent of the Bureau of Indian Affairs so that the council could select its own individual to operate all of those services. Whereupon the area director then took the deposed, very disgruntled removed superintendent and put him in a position next to the area director so that he would have direct-line authority over the performance of the contract. I rather sense this has a familiar ring in other parts of Indian country.

Mr. DELORIA. At least you kept him up there.

Commissioner BORBRIDGE. At least we always knew where he was.

Mr. DELORIA. I have one further question. Does the area office serve any function for you in the way of interpreting policy to meet local needs or in the way of centralizing housekeeping functions such as accounting or management or personnel?

Mr. REYES. In our minds, they do this. However, we would wish to do it ourselves and we feel we have the people who can do it and who would be able to take on the management of a risk proposition.

Mr. DELORIA. Does the area office serve any function that you feel you cannot perform yourself?

Mr. REYES. No.

Commissioner BORBRIDGE. I would like to ask one more question, Mr. Chairman, or maybe two. I want to stress again the difficulty that you pointed to, and that is, it is well-known that there are specific individuals charged with specific responsibilities for the delivery of services in an area office.

When you enter into a contract, as you pointed out, the difficulty is not contracting for services that are provided full time by individuals, but, rather, the difficulty in identifying those individuals in area offices who provide supportive services but who don't necessarily designate this as a separate item in a budget, we will say. I understand this is one of the difficulties you are having.

I seem to recall that the council had a very thorough and rather comprehensive evaluation of the delivery of the services under the contract and that there were representatives of the local area office as well as the tribal governing body. If I recall correctly, there were some recommendations made which would have improved services or provided for some innovative features to the administration of these services. Has any action been taken on any of this? If not, what is the status of those recommendations?

Mr. REYES. In our minds, no action has been taken by the area office. Presently we are going through another evaluation which will begin on May 17. We hope to follow through since this is our first full year where we are administering a contract in total. Previously, we had a contract where the contract was only for the direction of the program, and now it is not only direction but the operations of all programs. All the people in our agency are all tribal employees.

Mr. GOETTING. Would copies of those reports be available to us? There is no restriction on their distributions?

Mr. REYES. I would hope not.

Mr. GOETTING. I would like to have them submitted for the record of this Commission as well as available to Task Force No. 3 in regard to delivery of services provided by the organization of the government.

Commissioner BORBRIDGE. I wonder if we might have not only the evaluation, or if there is more than one evaluation, would you give us a report of what action, if any, was taken in response to the evaluation?

Mr. TONASKET. You say that the Bureau relies on the Bureau manual many times and it hampers your ability to perform the job you think has to be done. I don't remember hearing any recommendations that you made to us on whether or not to amend the Bureau manual. Is it in your mind just an administrative change, procedural change, that could be done so the Bureau wouldn't have to rely on their manual to hamper your operation? Do you have a recommendation for some action that we can take?

Mr. REYES. Our recommendation is that the Bureau of Indian Affairs Manuals are part of their management tool and we would like to administer the programs by the published rules and regulations.

Chairman ABOUREZK. Thank you very much for your testimony.

The next witness is Kesley Edmo of the Shoshone-Bannock.

I am sorry to have to be the one to announce this but we are running away behind schedule. I would like to ask if you would be able to shorten your testimony somewhat. We are going to have to ask all the witnesses to do so.

STATEMENTS OF KESLEY EDMO AND MAXINE EDMO, SHOSHONE-BANNOCK TRIBES

Mr. Edmo. My name is Kesley Edmo. I am a representative of the Shoshone-Bannock Tribes located in southeast Idaho. I am also a member of the Council and a former chairman, but due to certain consequences I am not chairman any more, but I am the main spokesman for the tribe.

This is my wife here, Maxine Edmo.

I am used to this sort of thing, you know, whenever there is anything going on like this, but I would sure like to thank the honorable Senator for the job you had done on our reservation in connection with the GAO report that concerned the leasing of lands that was later whitewashed by the Bureau of Indian Affairs.

I won't take too much of your time. Statement on the policies, practices and structure of the Federal agencies charged with protecting Indian resources and providing of services to Indian people for the American Indian Policy Review Commission: This is by myself and I am the elected representative from the Shoshone-Bannock Tribes.

On our reservation we have many violations. I am not going to go into the document, you each have a copy of the document and you have a copy of my primitive statements, also, because I am not no college graduate. I went to the eighth grade. But I have a lot of practical know-how that I learned from the non-Indian himself by working with him as an operating engineer.

On our reservation we have many violations, and when we talk about the restructuring of the Bureau of Indian Affairs I say the first thing you have got to do is get rid of all the dead wood. What I mean by that is: Start from the agency levels on up, because we don't need no area offices at Portland, Oreg., because all that is a bottleneck. Every time we send some of our recommendations to Portland it lies there for 6 months, I suppose our "Land Use Ordinance Policy" is still lying there.

The biggest problem that we have had in the past year is in regard to the ordinances and resolutions we have passed. The former superintendent that we had at our agency would never sign them. He would send them to the area office for their decision, but that was a direct violation of the constitution itself. It states that that superintendent has to sign these documents within a period of 10 days. Otherwise, return them to us so we can go over their heads. But this never has been done.

Also, in regard to land: When we talk about land and we talk about the employees that are employed, if we are going to have self-determination, and I have heard this thing going back to 1934, when we adopted, you know, the Wheeler-Howard Act, and in part it said us Indians are going to go forth to greater self-determination and everybody is going to recognize that. But in the due process we have had one problem after another, and this has to do with the employees that I was referring to. Whenever we talk about self-determination we have got to have the tools to implement that sort of thing with. So if we don't have the employees that have the know-how and the expertise, we are in the same position as we were before. I remember attending a national congress meeting, back in 1950, when we were talking along the same lines as we are today.

We talk about civil service employees, and it was always of my opinion that civil service employees used to be civil servants; now they are civil masters. This is my own opinion. Now, whenever you go to do anything you always got civil service at the policymaking level and you never get rid of them with your votes, either. They are always there, and they are always at the policymaking level regardless of who we vote for, whether it be a Democrat or a Republican. When we talk about civil service and we talk about tribal government in all the things that are involved, on our reservation the civil service employees are not advocates for Indians. In fact, they go so far as to conspire against certain Council members that are outspoken like myself. They use these civil service people to pack petitions. I guess they think that because they are members of the tribe that they are eligible to do anything. But I have always told them that they are governed, you know, by the same rules as anyone else when they work for civil service.

Also on our reservation we have a large phosphate mine, probably the largest phosphate mine of low-grade ore in the United States. Recently we have been negotiating on a new lease and on a campsite. When we have input from the Bureau of Indian Affairs—BIA personnel on the Fort Hall Reservation are not advocates of Indian people—in the lease negotiations—the Council is presently negotiating a business lease with Simplott—the BIA personnel are sympathetic to Simplott and do not maintain a hard line of bargaining. When we talk about the royalty discrepancies the BIA at Fort Hall were responsible to monitor the royalty payments and check all records of Simplott regularly. They failed to do so, and the tribe and tribal members have been shortchanged $1 million. We have, you know, this document. This came out of the Office of the Secretary of the Interior. When I talk about trust responsibilities, you know, there are very few of them left.

In making reference to land on our reservation, at the present time we have formed an organization whereby we are taking over all tribal lands. We are going to manage that tribal land, just for the simple reason that this land has been mined out and the only way that land is going to be reclaimed is by us as Indian people. At our expense as well as moneys that we can receive from Federal agencies.

When Ernie Stevens was out at Fort Hall I showed him this land that we are talking about. All that is left there is tumbleweeds. That is from the wonderful services of the Soil Conservation and the moisture experts. After they mined out the land here come the Soil Conservation experts and planted a few little trees along the edge of the land and they said that was going to preserve the soil, to keep it from blowing away. This is sand land. We raise about two to four percent of all the potatoes that are raised in the world right on our reservation, but the Indians don't raise them. That land is leased out to non-Indians just for the simple reason that an Indian can't get that kind of financing, to go in an operation of farming 1,000 acres of land today. When we go to borrow money there is never any there to lend us.

They come out with this new Indian Financing Act, and there is no definition of an Indian. You don't even have to be an Indian to get the money, because there are two different sections to the act. When it refers to Alaska it says they have to be one-fourth degree blood. In connection with our tribe it doesn't say one drop of blood.

But then we have another program there, the revolving loan program which never has any money, it has a provision of one-quarter degree of Indian blood, and that's what we stand on, because there is so much competition, you know, for money any more that there is very little to go around for the needs of the people.

When we talk about this band analysis, I don't think we even knew what it was until 2 years ago. The Bureau had been making all the reports for us. We didn't even know what a band analysis was, and that is just for the simple reason we live in an isolated community. We are at the end of the line out of the Portland area office. We learn everything after the fact. In fact, last summer the Bureau of Reclamation moved their headquarters from the designated area onto nontrust property without our approval. We find out after the fact. This was done, you know, through the personnel, area directors, superintendent, and the water master at Fort Hall. We caught them before they moved the last building, and we said, "You people are here for the benefit of us Indians because if it wasn't for us Indians you wouldn't have no irrigation department here."

"Oh, no, we're not here for the benefit of you damned Indians," and those are the exact words, "we're here for those non-Indians because they are paying for this water."

"Listen here," I said, "if it wasn't for us damned Indians being here you wouldn't have a job."

And of all the problems that we have had—we have got a lot of sprinkler systems going on our reservation and a lot of deep wells, and when an Indian goes to farming he doesn't have, you know, that capital to go into the sprinkler system, he irrigates by gravity flow. You irrigate below one of these sprinkler systems, there is no water ever going to reach your property, for the simple reason that it takes all the gravity out of the water, it won't flow any more.

Out of the 110,000 acres of farming land on our reservation, there is actually around 9,000 acres farmed by Indians themselves, even although we used to have, in my boyhood days, there used to be all kinds of Indian farming and we ran all kinds of cattle, too. We are down to absolutely nothing now.

But that was one of the reasons, you know, for forming this organization where we are going to try to reclaim the land that has been mined out.

And the amount of lease rentals on our reservation are channeled through the Bureau of Indian Affairs. Indians are supposed to get the top dollar for their land, which they don't. When I first became a member, for the second time, of the business council in 1963 the land was leasing for $3.50 an acre, top price. Most of it was going for 50 cents an acre. And right today on the lease rental adjustments that they adopted here a couple of years ago, the land is still leasing far below what any other land leases for in the same area.

What the Indians are concerned with is that if we don't get something done to protect our soil in the way of erosion and things of this sort, there is not going to be no land to lease because the Indian can't farm it himself any more for the simple reason they don't have the money.

When the Indian leases out his land, they have provisions in title 25 of how soon they are supposed to be paid. Well, we have got Indians waiting for 4 to 6 months all the time, and on our reservation the income level is very low. When you break it down familywise it probably amounts to $450 a year, and we have the average families, you know, of five. There may be a few Indians that realize a large amount, but that is also going down, just for the simple reason we don't have any soil conservation practice. And what we have in mind——

Chairman ABOUREZK. May I interrupt you?

Mr. EDMO. Yes.

Chairman ABOUREZK. You have heard some of the other testimony here today in response to questions we have asked about restructuring the BIA. Do you have any comments directly on that point?

Mr. EDMO. Do away with the area office. Put that power down at the agency level so we can have direct lines on Washington, D.C. That's what we have said, going back to the year of 1946 when the area offices first come into being.

Chairman ABOUREZK. What about a separate agency?

Mr. EDMO. That deals with Indian affairs?

Chairman ABOUREZK. Out of the Interior Department.

Mr. EDMO. That would be all right, too, but the only thing that would be involved there would be the change of administration, wouldn't it?

Chairman ABOUREZK. Not necessarily. What is the prospect of giving the tribes the right to make decisions and having whatever agency exists as a technical service agency?

Mr. EDMO. Well, it would be all right, in my opinion, but I am just one member of the tribe.

Chairman ABOUREZK. What do you think your tribe feels about it?

Mr. EDMO. Well, they would think that would be all right, the majority of them.

Mr. DELORIA. Mr. Edmo, have tribal members tried to get financing through the Indian Financing Act or Farmers Home Administration or any other Federal source to go into farming on their own?

Mr. EDMO. Yes; they have tried.

Mr. DELORIA. They have tried. What was the result?

Mr. EDMO. Well, they just didn't feel they had to pay that large interest rate, you know, under the Indian Financing Act. We said that ourselves, you know, at the business council. We didn't feel we could stand that large interest rate that they charge on that money, and Farmers Home Administration, we have had, you know, experience with them. Some of the tribal members have borrowed money to build houses and have all lost them because of the high interest rate and otherwise.

Also, the people in farming, they have all dropped FHA, they have went to production credit, you know, a few of them. Very few Indians can qualify to get a loan on our reservation.

Mr. DELORIA. Is the Bureau of Indian Affairs making any attempt to assist the tribe itself or tribal members to gradually take land out of lease and put it into tribal Indian control?

Mr. EDMO. None. They call that progress when you lease out all the land.

Commissioner DIAL. Mr. Edmo, what role is your tribe playing in leasing this land? What is the role of the average tribal member in leasing the land? Do they really know what is going on?

Mr. EDMO. The majority of them don't know what is going on because they sign a power of attorney to the superintendent. In most cases the power of attorney that he signs is blank. They fill it in afterward. So the Indian is bewildered, because we have a very limited amount of education on our reservation.

Commissioner DIAL. There is no real negotiating going on with your lay people, with the corporations, in regard to lease, right? It is kind of a hodge-podge, would you say?

Mr. EDMO. Well——

Commissioner DIAL. What I am saying: Are you "taken"?

Mr. EDMO. On the part of the tribe, we do all the leasing on tribal land, but when it comes to the individual allotment the Bureau of Indian Affairs handles those leases.

Commissioner DIAL. But are you "taken" on these leases?

Mr. EDMO. What was that? Did you say are we "taken" on these leases?

Commissioner DIAL. Yes; this is a term I use. Do people take advantage of you?

Mr. EDMO. Yeah, right and left.

Commissioner DIAL. I guess it is very expensive. Where I come from it is not too expensive to farm, say, 1,000 acres. You need maybe four tractors and a little equipment and you can go ahead. But here with irrigation involved it is quite an expensive project; isn't it?

Mr. EDMO. You bet.

Commissioner DIAL. You are saying that the Government needs to make available funds for Indian people to do some of their own business, rather than business from the outside?

Mr. EDMO. Right.

Commissioner DIAL. Do your people have interests in developing their own businesses, or in farming their land?

Mr. EDMO. Sure, they do.

Mrs. MAXINE EDMO. Could I break in here a little bit? I just wanted to explain that a lot of our land is heirship land. We have a lot of Indian people that own maybe 20-acre allotments, and this heirship status of our reservation is a big problem. This is why our land is leased out to individual interests. This does create a problem.

At one time I believe Senator Church submitted a bill to try to alleviate that, but the Indian tribes felt is was a termination bill. So this is also a need that we have. We need technical assistance in overcoming this problem. So we would rather not have Congress do it due to the way Senator Church's bill was worded. I feel it is up to the Indian tribes to come up with their own bill, but they need technical assistance to come up with their own bill to overcome this problem. The tribe is trying to buy land in heirship status, but due to limitations on tribal funds, it really creates a problem.

Mr. EDMO. In connection with what she is saying about buying tribal land: In the past year we spent around $300,000 of tribal money trying to buy back interest in the heirship land.

Commissioner DIAL. Do members of your tribe have some of the good positions with the mining companies?

Mr. EDMO. The majority of them don't. The mine that is located on our reservation, you know, the white man has the first priority. The last time around when we negotiated a lease over 10 years ago, the Bureau says, "Well, you don't have that right, you know, to put these things in your lease agreement." But in this new lease that is drawn up we have that provision in there, that there's going to be 75 percent of our Indian people working there.

Mrs. EDMO. A minimum of 75 percent. We are renegotiating the lease.

Commissioner DIAL. Looks like you need to stay right in there and keep fighting.

Mr. GOETTING. Could I ask a question here in regard to the statement Maxine mentioned in terms of you need technical assistance in order to help the tribe develop a program that would approach the solution to some of these problems for you; if that is what you need: Have you asked the Bureau for funds to hire a planner or some business activity in order to be directed by the tribe in accomplishing its purposes and objectives? Is there any effort being made to develop a request of the Bureau for that sort of assistance?

Mr. EDMO. No, we've been doing that on our own. We had a plan all outlined on how we were going to accomplish this heirship. But when it went to the Bureau our resolutions didn't get signed.

Mrs. EDMO. I might also add that the band analysis is restricting and it plays one program against the other. We have a two-page sheet here just on the band analysis.

Going over to education: I have it on my education testimony. that was submitted to the Education Task Force, where we lost $100,000 in 1 year in a mistake the Bureau of Indian Affairs made at the Portland area office level. They inserted the figure in the band analysis that was supposed to have been for northern Idaho and they switched it around, so we stood a loss of $100,000.

We wrote letters to Congressmen and this has never been cleared up. We asked the people that made the mistake to live up to it and something be done to them. but to this day nothing has been done. Then the next year they took the JOM out of the band analysis. Then the Bureau of Indian Affairs came up with a formula, and to this day our Indian students are being punished for being educated in the State of Idaho, and we are continuing to have the same problem.

Mr. EDMO. Could I say—time is up?

Chairman ABOUREZK. Do you have one Mel?

Mr. TONASKET. Just a request. You made a statement that there have been some Bureau of Indian Affairs' employees involved in tribal conflicts or——

Mr. EDMO. Politics.

Mr. TONASKET. Politics, that's the word. Could you give us some documentation on that? I think that is a very serious situation when the BIA tries to influence tribal politics.

Mr. EDMO. Can we use your offices for that purpose?

Mr. TONASKET. Give us some proof, please.

Mr. EDMO. I might add, also, that on some of these, the Bureau is constantly undergoing restructuring, realigning, and reorganizing for the purpose of maximizing services to Indian people, and yet Indian people are never involved in the decisionmaking. Usually, by the time it gets to our level, at the agency level, just in education alone they submitted a career development policy to us that was that thick [indicating]. They wanted a reaction from us within 2 days, and we refused to do so. I do feel that that has to be clarified and I do feel the Indian people at the grassroots level know best what the needs are in Indian education and this goes for the whole thing. The only good working relationship we have with the BIA is in the Education Department at the local level. The rest of the time the other staff never try to help the Land Committee or anybody else at the local level. I do feel that Indians should have the right to say who works on their reservation, because the way it is now you get people that are unconcerned and could care less, and I do feel that Indians should be involved in who the civil service people are that work on their reservation.

The same way with this Albuquerque office—we have had problems with them. We submitted that in our testimony on education. All we have had is problems with them. We feel it should be centralized in the central office and people that are working for the best interests of Indian people should be the ones that are sent up to the central office level rather than people that are deadbeats.

Mr. Edmo. Just one more thing——

Mr. Goetting. To clarify the statement you just made, Maxine, what office in Albuquerque are you talking about?

Mr. Edmo. In several instances we have had requests for training from the National Indian Training Center, and I still don't know how the structure is, we have never received a chart on the structure or anything.

Mr. Goetting. You are talking about the education office in Albuquerque?

Mr. Edmo. Yes.

Mr. Goetting. It is attached to the central office?

Mr. Edmo. Yes; and I always thought the boss was in Washington, D.C., but it doesn't look that way. The people that signed the turn-down, the letters always come from the Albuquerque office, and that's who I am talking about.

Chairman Abourezk. I hate to cut this off, I really do, but I am afraid in an effort to get as many people to testify as we could, we scheduled too many witnesses and it gives everybody too short a time. What I would like to ask you to do is submit whatever other documentation you have for the record, it will be in the record that way. We had better be moving on or we will never get all the witnesses heard.

I want to express my gratitude for your testimony. It was an excellent statement.

Mr. Edmo. We certainly thank all of you for the privilege.

Chairman Abourezk. The next witness is Purcell Powless of the Oneida.

I would like to welcome you to the hearings. We don't have as long a time as we originally had scheduled.

STATEMENT OF PURCELL POWLESS, ONEIDA TRIBE OF WISCONSIN

Mr. Powless. You can cut me off when you get ready. I will go as far as I can.

My name is Purcell Powless. I am tribal chairman of the Oneida Indian Tribe of Wisconsin, I am here today to testify on behalf of my tribe on needs and programs related to the U.S. Bureau of Indian Affairs. To a great degree, we are here to support a more equitable distribution through the Federal delivery systems for all tribes and especially those tribes under the jurisdiction of the Minneapolis area and the Ashland agency.

The Oneida Tribe is a federally recognized tribe, entitled to certain annuity and other benefits, some of which we receive that are especially provided for as symbols of the policy set forth in the treaties, Constitution, and Northwest Ordinance, all of which evolve further as symbols of the long struggle of the Oneidas to be forever free, and that the Oneidas shall be forever free under the protection of the United States as set out in our treaty.

I would like to explain a little bit here about the annuities we receive from the U.S. Government. We receive payment every year of about $1,800. At one time, up until 1957, the Federal Government was making 52 cents per capita payments. It was a treaty that we had with George Washington at that time. So in 1957 the Bureau of Indian Affairs approached the Oneidas and they wanted to make a lump-sum settlement. They said it cost too much money to make out the per capita payment, and we all received 52-cent checks. So we didn't agree with any lump-sum settlement of $60,000.

Money isn't the principle of the thing. We wanted to keep our treaty relationship with the U.S. Government. So we turned that down. They offered us a $60,000 settlement. That is one of our treaties that we have. So they didn't make the yearly per capita payment of 52 cents and they elected to let this amount accumulate, and they made a per capita payment in 1964, and we each received $4 and some cents.

That was the last payment we had, and to this date we haven't received a payment from this treaty, but each year they put this in our treasury, and I don't know when they are going to make the next payment, but we have an accumulation of about $20,000 in this treaty now.

For 3 or 4 years we tried to get the Bureau of Indian Affairs to put this treaty money in an interest-bearing account. We sent in resolution after resolution, and I think we finally got it in. I'm not sure yet, they never notified us when they are going to pay it off.

This is one of the treaties we are involved in.

Therefore, on behalf of the Oneida people, I am glad to have the honor to express to you our appreciation to be able to come before this Commission and express to you a number of the issues and problems that face the Oneida Indians and other tribes in our area.

Our concern is that the Bureau of Indian Affairs, Indian Health Services, and other Federal agencies please be reminded that we have always been federally recognized Indians. We want the Congress in their increasing concern for providing services to all Indians to remember those who have always been under the trust and we request that expanding budget be applied first to fair distribution and true priorities of reservation people.

Our comments can be generally summarized as follows: The Minneapolis area office of the Bureau of Indian Affairs and the Ashland agency does not receive an equitable share of the Federal budget for reservation Indians. Related to that, the Oneida Tribe does not receive a fair share within this existing overall inequity.

The 22 tribes presently in 4 State areas, which include Wisconsin, receive approximately only 3 percent of the Federal programs for Indians and yet we comprise 6 to 10 percent of the service population.

There are 80 Indians for every Bureau of Indian Affairs employee in the Minneapolis area. On the other end of the spectrum there are 23 to 29 percent in seven other BIA areas. We might say something humorous about this if we had not lost so much of our land.

The BIA budget is the most shocking. The four-State area receives only 3 percent of the total budget. Inequity and the bureaucracy have ganged up on us here.

All federally recognized tribes should become recognized as a part of the budget line items in the Indian congressional budget. Budgets should be developed, programed, and maintained on a tribe by tribe fair share basis.

The Oneida Tribe has consistently supported Indian tribes and individuals who are not given their legal rights and are not recognized as federally recognized tribes. The legal right to be recognized as a tribe and consequently for its members to just be an Indian under the law, with all its implications, is a cornerstone and fundamental right.

We were pleased when the terrible Menominee termination process was corrected by legislation and that service and trust status were properly restored and budgeted by the BIA. We are further pleased to see that the tribes in Maine are at least being federally recognized and given their legal rights and likewise are being recognized by budget and trust status. Like these tribes, the Oneidas have suffered much and have been divested of their lands and rights by a trustee who has all but sponsored unsupervised losses of land which were guaranteed by treaty which "pledged that the Oneida lands shall be secured forever." The Oneida Tribe has found out to its sorrow that forever took only 100 years.

We also note that in each one of these cases the tribes are being recognized within a budget line submission. In the case of the Maine Indians the two tribes will receive benefits of approximately $5 million a year, an average of $2,000 per person as reported by the Administration.

The question is: How does an original treaty, and probably one of the first Federal tribes recognized under the Constitution get in on such a good deal? With a 6,500 tribal enrollment and with 2,700 people at home, those rates would be worth from $5 million to $13 million annually. The Oneidas might be persuaded to give up the area offices and various other parts of BIA Administration for a real budget with latitude under a line item called Oneida Tribe of Wisconsin.

The Oneida Tribe is entitled to be informed and allowed to participate in the specifics of the budget process of the Bureau of Indian Affairs in accordance with section 476 of 25 United States Code which states, "The Secretary of the Interior shall advise such tribe or its tribal council of all appropriation estimates or Federal projects for the benefit of the tribe prior to the submission of such estimates to the Bureau of the Budget and the Congress."

I would like to point out and emphasize also at this time that when the Oneida Tribe agreed to organize under the 1934 act we did not agree nor would we now agree to negotiate with the Federal Government through any kind of intertribal, regional, or national administration or organization. This was forced on us and our attitude is that "a deal is a deal." This Commission is concerned with national representation of Indian tribes. We recommend that each tribe speak for itself as agreed in treaty, U.S. Constitution, and statute.

The Oneida Tribe is entitled to a minimum budget related to Federal trust responsibilities. Anything less constitutes a budgetary violation of that trust. The Bureau of Indian Affairs is requested to locate a new agency in Oneida, Wisconsin, which will also administer the trust responsibility for four other tribes in east-central Wisconsin. These tribes are entitled to have the Bureau of Indian Affairs administrate for the protection of five tribes with 78,049 acres in trust and 6,232 Indians living on reservation, at some point near their present location.

A very valuable property was recently lost near the Green Bay Municipal Airport. Allotted land from our tribe which was adjacent to tribally held land was condemned for "public use" on October 3, 1973. On the same day the Ashland agency of the BIA was served, that same agency notified its Branch of Realty that it was out of funds and could not attend meetings, proposed rights-of-way and leases, et cetera, or do any other business requiring travel. This is the position of the trustee in the Ashland agency of the BIA.

The Ashland agency has again notified the tribe on May 4 that travel is restricted. This might not be a problem for other tribes, but the Oneidas are located 250 miles away from the Ashland agency. It is interesting to note that although exceptions were allowed, trust functions were not included. I understand that the BIA has spent $36 million over the last 3 years in travel. If this money isn't being spent by the BIA at the agency level, then I suggest that the area directors just stay home for a few years or retire altogether.

The BIA's trust administration must be improved overall. Three years ago when the Bureau couldn't afford to come to Oneida we were in the midst of a battle with the county of Green Bay which was attempting to condemn allotment land that bordered on tribal land.

If our situation wasn't so tragic it might be humorous. A few years back several agencies—including EDA, SBA, BIA—and the local bank collaborated on an industrial park, including a business which proved, after considerable investment, not to be feasible. The only thing that prevented the local bank from taking full legal possession of the building was that the BIA had never approved the original lease. So much for our diligent trustee.

The trustee is prominent in other areas related to our tribe.

In 1967 Congress awarded a claims settlement to the Oneida Indians. Nine years later we are still waiting and through bureaucratic bungling we have been thwarted over and over from completing the implementation of a plan for distribution—first through not completing the tribal rolls and now through the lack of approval by the BIA of our distribution plan.

I would like to explain a little bit about this claims money we are talking about here. In 1967 the Oneida Tribe, Stockbridge and Muncie and Bretherton, were awarded a claim. According to the act, we were required to update our tribal rolls, which we did, within 2 years, and then the Oneida Tribe of Indians adopted a distribution plan where they set aside 85 percent of this claims money for per capita payment, and the other 15 percent was set aside for reservation development.

We presented this plan to the Bureau of Indian Affairs, and under this 85 percent distribution plan we had a plan where we would pay out this money over a period of 19 years. The accumulation of the interest on this money amounted to about $1,400,000-some and the plan was to take the $400,000 and pay out a per capita payment of $176 to each eligible member, and then the $1 million we would invest in an interest-bearing account and each year after that we would make another per capita payment with the 6 percent interest. When we finally would have this all paid out, we would still have our $1 million in trust.

So the Bureau of Indian Affairs requested that we present a plan, which we did. So last November they made a first per capita payment and we were able to pay to all the elderly Indians, up to 60 years and over, a per capita payment of $176.

Well, then, on January 1 we were forced to make another payment where we would be able to pay the next age group, which would be from 52 to 60. Well, they made one payment and then the Bureau of Indian Affairs stopped all payments. Somebody didn't approve our plan. So now we are held up again. This is the situation we are in. I don't know when we are going to start making this payment distribution again. We wrote numerous letters to Congressmen and everybody. We are still on dead center, I guess.

Commissioner Borbridge. Mr. Chairman, I would like to ask what reason was given for holding this up and was there any advance notice given to you so that you had some indication that payments might be withheld?

Mr. Powless. There was no notice given when we didn't start receiving our payment. The Bureau of Indian Affairs was supposed to distribute this money, then when we inquired as to why the next age group wasn't receiving their payments they said, "Well, the Secretary of the Interior—or somebody—didn't approve the plan."

Well, if nobody approved the plan, I don't know who started the payment. Some of the reasons they gave in there was that—I think in this plan the Oneida Tribe said they would only pay out descendants of Oneida's—you know, there are a lot of intermarriages—any heirs that would be white wouldn't receive this payment. So that was one of the reasons they said we can't do this. But this is our money and we thought we should be able to pay out who we want to.

That is one of the reasons they gave us. I don't really know where it is at now.

Chairman Abourezk. Percy, are they admitting the payments they have made already are in error?

Mr. Powless. They never had admitted anything. They also sent a $26,000 check to our trust committee for those that were deceased and then——

Mr. Goetting. Was that a part of the plan?

Mr. Powless. That was part of the plan. Those elderly that were deceased and were eligible, the Bureau sent the check for that amount to the tribe.

Mr. Goetting. Looks like they are selecting that portion of the plan they want to honor and then turning down the rest of the plan the tribe wants to honor.

Mr. Powless. Well, they are turning down the whole plan. We want them to honor our plan. We don't want them to tell us how to distribute our money. They asked us for a plan and this is what we submitted. I don't know what they are really doing about it.

Mr. Tonasket. Could I ask a question before you go on, on not approving the plan, you keep referring to "they": Could you give us some names of "they"?

Mr. Powless. I suppose you would start with Commissioner Thompson.

Mr. Tonasket. Have you had assistance from the agency level? Did they support you?

Mr. Powless. Well, not really, nobody commits themselves. I don't know. I hear the name of Klensky and some other names, I don't know.

Mr. Tonasket. Whoever is acting at that particular moment?

Mr. Powless. In the agency there is somebody acting different every day. They don't have a superintendent there. Every time you call there, there is a different person. Nobody has really told us when they are going to approve this plan.

Mr. Tonasket. Kind of like wrestling with a jellyfish, isn't it?

Mr. Powless. Something like that.

Chairman Abourezk. Percy, I think once again we are running overtime now. I wonder if I could ask you if you would submit your entire statement for the record and the record will be open for any additional submissions you want to make.

Mr. Powless. I would like to add a little more first. It won't take that much time. I would like to explain our situation here.

Our reservation originally was 65,000 acres and we lost the whole reservation excepting 400 acres of allotted land that was held in trust for the incompetents at that time, and in 1934, in the Indian Reorganization Act, the Bureau was able to buy back 2,000 acres. So we have a 2,000-acre checkerboarded reservation, and at that time they were only able to buy back some marginal land.

The situation we are in now is that we already have over a hundred units of housing and we have an allocation of 40 more units, and we went to FHA to try to get more money for more land acquisition so we could have home sites for these 40 units.

Well, FHA tells us how are we going to amortize this loan, and all this and that.

Out of this 2,000 acres we don't have enough land left that will pass the HUD standards, where we can put in a septic and well system. So we got about 2,000 acres of submarginal land that isn't good for farming, it is mostly wet lands. We are trying to find money or borrow money from FHA, or wherever, the Bureau, for more land acquisition because of the need for housing on our reservation. This is a big problem now. Even though we have over a hundred units of housing, we are still overcrowded, people coming back from the cities that are looking for home sites. I think most of them were relocating from the early fifties.

We have all kinds of problems in delivery of services. We asked for a subagency to be located in our area, and they haven't done anything on that yet. We even told the Bureau that if they establish an agency at Menominee County we will accept services there. They don't have to give us an agency, we would just accept any kind of services. That would be better than the situation is now. We are 250 miles from the agency and when they restrict the travel of the employees you don't get many services.

I would like to thank you for allowing me to testify. I have had copies of this made.

Chairman ABOUREZK. I want to thank you very much, too, Percy, for your testimony.

The next witness is Roger Jim of the Yakima Indian Nation.

I would like to welcome you to the hearing, Roger. I hate to be the one to bear bad news every time, but I have to ask you if you will kind of compress your testimony.

STATEMENT OF ROGER JIM, YAKIMA INDIAN NATION

Mr. JIM. I wouldn't worry about my statement. It isn't very long and I don't want to take up too much of the time of the Commission.

Chairman ABOUREZK. It isn't our time, it is really the time of the other witnesses that we are worried about.

Mr. JIM. OK, I'm ready if you are.

My name is Roger Jim, Sr. I am legislative chairman of the tribal council.

The Yakima Indian Nation has reviewed the issues on the structure of the Bureau of Indian Affairs.

This is the feeling of the Yakimas in respect to the trust responsibilities. Fiduciary responsibility is delegated from the U.S. Congress to the Secretary of the Interior—which fiduciary means that the Secretary acts in the best interest and in the utmost good faith with regard to the beneficiary with strict honesty and candor. It is of the most intimate of trustee and beneficiary relationship.

The special relationship is then delegated to the Commissioner of Indian Affairs and on down to the local agency superintendent—no portion is diminished. And I think you have heard through the testimonies presented today that there is a lot of conflict in this area.

Too often our trustee feels overly concerned with the people when there is already a tribal government to do this. What is needed is a vigorous enforcement of our treaty rights as they relate to the land, water, and other resources. These are the areas of immense pressures on the tribes and the place where protection is sought and needed the most.

The powers exercised by the Commissioner of Indian Affairs must express this fiduciary responsibility as a trustee of the treaty, lands, waters, fishing and hunting rights and other rights in this implied trust. He can only act in good faith and from proper motive, but also within the bounds of reasonable judgment in his discretion as a trustee of the treaty rights.

This year, 1976, the trust relationship, as delegated to the Secretary of the Interior on down to local superintendents, must recognize the self-determination as was implied in the treaty to only do what the beneficiary wanted and wants with checks and balances as expressed by the beneficiary.

Today the Secretary of the Interior, with his delegations of authority, does not always act in the best interest of the beneficiaries because of a conflict of interest, and I think you have heard much of it today and I don't want to go into it.

Because of the promulgations of the Code of Federal Regulations that provides the trustee with regulations contrary to the fiduciary trust responsibility as expressed in the treaty, the bureaucracy known as the Bureau of Indian Affairs many times has prevented the beneficiaries' self-determination because of the conflict with the Code of Federal Regulations. Trust obligations to Indians have been affirmed up to this time and will be, I presume, in the future, by the statutes and by the courts.

I would like to quote what some of you must realize was made in 1787, article 3 of Northwest Ordinance of 1787:

> The utmost good faith shall always be observed towards the Indians, their lands and property shall never be taken from them without their consent, and in their property rights, and liberty they shall never be invaded or disturbed unless in just and lawful wars authorized by Congress: but laws founded in justice and humanity shall from time to time, for preventing wrongs being done to them, and for preserving peace and friendship with them.

This is the way that it was supposed to be and in this Bicentennial year, you have had an earful today of what has happened since that time, we have experienced a failure of the fiduciary trust relationship as was intended by the treaty between the Yakimas and the U.S. Government.

The need to restructure the Bureau of Indian Affairs as desired by the Yakimas will only reflect, as I am going to say a few things in relation to the Secretary of the Interior's trust responsibility and his delegation of authority to people under him, especially to the Commissioner of Indian Affairs.

Discretionary authority: Must be of the highest fiduciary trust responsibility; exercise of powers and control of his deputy commissioner, his solicitors, program directors and his staff; direct communications and dissemination of information between Commissioner and tribal leaders. We find there is pigeonholing of important documents between him, his staff, and the tribal leaders. Oftentimes we find important communications are months late. Commissioner authorities and tribal authority—only one—to recognize his trust responsibility to be of the highest fiduciary relationship with the tribes.

In closing I would say the Yakimas have a treaty with the U.S. Government and want the Secretary of the Interior with his delegated authority to carry his trust responsibility out to the fullest.

That is all I have to say, Mr. Chairman, and I thank you for this time. If there are any questions?

Chairman ABOUREZK. Thank you very much. I would just like you to respond to the questions I have put to the other witnesses about restructuring of the Bureau of Indian Affairs, which is what the hearings were called for. You have heard the questions and perhaps some of the discussion. How do you feel about it and how does your tribe feel about changing the structure of the BIA, setting up a trust council authority, all of those things we have discussed?

Mr. Jim. I have run this by our tribal council. They have mixed feelings, as you probably have experienced with the testimony, in respect to the abolishment or changing. We would like to see us have a voice in the structure. If it is going to be restructured we would like to have a voice in it like we have expressed in respect to the Code of Federal Regulations. We feel that the tribes today must have a voice in all of its business that relates——

Chairman Abourezk. Roger, that is what these hearings are for, to give the Indians a voice. I have got to be very frank, I haven't heard much of a voice on restructuring today. A few of the witnesses have talked about it but not too many, and that is what I would like to hear: How you believe it ought to be restructured; how the Indians believe it ought to be restructured, if it has to be restructured. Maybe some of the Indians don't think it should be, but if you do think so, I would like to hear how it should be done, what is the best way to deliver services to the Indian people.

I would like to ask the witnesses that are yet to testify if they would please restrict their testimony to those issues, I think it is fine to talk about these other issues, but the thing is, there is just not enough time to talk about them all, at least if we are trying to structure this kind of a hearing to discuss one certain issue. If we, as a Commission, are to learn anything from the Indian people we have to have you speak to that issue of restructuring of the BIA. If the Indian people can't speak to it, I don't know who can. It is not going to be dealt with if the Indians don't do it. So I would like everybody to try to think ahead of time what the best way to do this is and discuss it with us. Otherwise, we are not going to know. We are going to come up with a very confused result on the report.

Mr. Jim. Mr. Chairman, as I said before, I ran this before our tribal council and this is the way they felt, that is: If the Secretary would only realize that he has this responsibility and the rest of his people would act in the same way, that no portion of his authority really can be delegated on down, and his responsibility to those people that he is responsible to in a fiduciary relationship. That's why we didn't point out any of the other issues, if this is the way it was intended in the beginning, then that is the way he must carry it out today.

Chairman Abourezk. In theory, Roger, that is fine, but if the Secretary recognized his responsibility we wouldn't be here today. The fact is, he doesn't recognize his responsibility and we have to force him to do so. That is why we are discussing restructuring of the BIA so we can figure out the best way to force him to recognize his responsibility; through what means can we do this? That is what we would like to discuss.

Mr. Jim. My personal feeling in relation to this, the Indian, the tribal leader, must be involved in all the decisionmaking in the Bureau of Indian Affairs, and to direct any branch or any program on the local agency level without having the Code of Federal Regulations thrown in our face and say, "I'm sorry, Chief, but I can't do it because the Code of Federal Regulations says that I can only do certain things." That is why we have only mentioned the Code of Federal Regulations in my talk, that is the backbone, or rather, seeing that the Bureau of Indian Affairs uses that when the tribal leader starts to force one of the officers on the agency level or on the area level and on up to the central office to do something for them. I have heard that time and again, and I think self-determination today is regulated, and I don't feel very good about that. I feel the tribes must express their own self-determination without being regulated by a law such as Public Law 93-638.

Chairman ABOUREZK. We are trying to give the tribes an opportunity to do so but they are not taking the opportunity. That is all I have got to say.

Mr. DELORIA. May I ask two questions?

Mr. Jim, in your opinion, does the area office serve any useful function in the administration of the Bureau services?

Mr. JIM. Many times it is a deterrent to an advancement of the tribe. I think in our area maybe it would be best if we didn't have an area office, so there would be a direct communication between the tribes and the central office. We don't usually go there, especially the Yakimas, we always go to Washington and the staff up there.

Mr. DELORIA. Thank you. I have one question perhaps you could consider. I don't mean to ask for any information that the Yakima Indian National may consider confidential, but I think it would be interesting to have from a number of tribes an indication of the cost to the tribe of legal services in trying to force the trustee to fulfill the trust obligation. It would be interesting if the Yakima Indian Nation would share that with us to find out how much it costs you to get the trustee to live up to his obligation, if you could submit that later.

Mr. JIM. Yes; we will.

Chairman ABOUREZK. Roger, thank you very much for your appearance and your testimony.

The next panel of witnesses, James Hill, Jim McLean and Sherman Wright of the Rosebud Sioux.

I would like to welcome you to the hearings. I want, before you start, to request that you restrict your discussion to the issue of restructuring of the BIA if you think it is necessary. In discussing that issue, would you restrict it to the problems you see in the existing structure? And then, if you want to, be specific about how the structure ought to be changed so the services can better be delivered, so that there would be a freer flow of ideas, and so on, in the tribes.

Mr. SHAW. We will be very specific, Senator.

Chairman ABOUREZK. Thank you.

STATEMENT OF JAMES SHAW, ACCOMPANIED BY SHERMAN WRIGHT, ROSEBUD SIOUX TRIBE

Mr. SHAW. My name is James Shaw, S-h-a-w, not James Hill, and I am a member of the Rosebud Sioux Tribal Council, Rosebud, S. Dak.

With me is Mr. Sherman Wright, the 701 planning director for the Rosebud Sioux Tribe.

We came up to this meeting with very mixed feelings concerning the Commission. As you know, and all the people sitting in here today know, there have been boards, organizations and groups set up in the past and probably will be set up in the future, to deal with the Indians, their ideas, their recommendations, and their problems, namely, the white man. They have all been heard before and a big part of the time swept under the rug. But after being here for a few days, talking to some of the members here, listening to their ideas, their recommendations to me and also listening to mine, I became very impressed that this Commission may not totally be the answer but it is certainly going to be a steppingstone toward Indian self-determination and government. Hopefully, the recommendations you hear today and while you are in existence will be before Congress and action taken by the Congress to benefit the Indian people.

I think it is an honor and a privilege for me to be here since this is my first year in tribal government. I got butterflies up to here, but I am going to be heard out.

You probably have a ton, maybe 2 tons of recommendations, probably 4 tons of problems. But none of these recommendations or none of these problems will make any sense at all unless one big step, which the Rosebud Sioux Tribe firmly believes will take place, unless this first step is taken.

First, I guess we got to deal with the problem before we get into any recommendations. Under existing arrangements, the existence of Indian tribes is jeopardized by the location of the Bureau of Indian Affairs within the Department of the Interior and by the lack of any effective exercise of their sovereignty by the Indian tribes.

The location of the Bureau of Indian Affairs within the Department of the Interior enables non-Indian economic interests, and their political surrogates, to exploit Indian land and resources through pressure exerted on and by the Secretary of the Interior and the Department of the Interior. Furthermore, the location of the Bureau of Indian Affairs within the Department of the Interior enables other Interior bureaus to appropriate Indian land and resources for their own purposes.

The lack of effective exercise of their sovereignty places the Indian tribes under control of non-Indian authority and interests who exercise their power to the detriment of the Indian tribes.

The big step I was mentioning, regardless of what kind of recommendations come up, this first step has to be taken.

The existing arrangements should be modified as follows: The Bureau of Indian Affairs should be removed from the Department of the Interior and should be reestablished as an independent agency within the executive branch of the Federal Government. In this new arrangement the Bureau of Indian Affairs would exercise no authority over Indian tribes, but would be a service organization delivering to the Indian tribes appropriate and requested services and relaying to congressional Interior Committees legislation proposed by Indian tribes.

Indian tribes should govern themselves with at least the same freedom from Federal interference that cities, counties, and States enjoy.

An institution separate from the Bureau of Indian Affairs should be set up within the Federal Government, accountable to the Indians alone, whose responsibility would be to fulfill trust obligations. This institution should be staffed by officials chosen by the Indian tribes.

This deals with the Commissioner of Indian Affairs. The Rosebud Sioux Tribe feels that the Commissioner of Indian Affairs should be elected by all of the Indian tribes and not be politically appointed by the President of the United States. How else can the Indian tribes practice their self-determination if they do not have any voice or input into who will be their Commissioner.

The area office: The Rosebud Sioux Tribe strongly urges that all of the Bureau of Indian Affairs area offices be streamlined in a fashion to meet the needs expressed by all the tribes.

The personnel in these area offices would only act as advisers or consultants, in a technical assistance capacity, and not as the tribes' decisionmakers. In this manner the tribes can decide on their own determinations. This cut-down of personnel at the area level would help to increase more moneys going directly to the tribes to meet more needs of the local people.

A few short recommendations here that, like I say, wouldn't mean much unless the first one, the one we think is the priority, of getting the Bureau of Indian Affairs out from underneath the puppet strings of the Secretary of the Interior and the Department of the Interior: Have the Commissioner of Indian Affairs be appointed or elected by Indian tribes.

Reasons: An appointed or elected Commissioner would definitely be an asset to the tribes.

The Commissioner would be more responsive and sympathetic to the requests and the needs of all Indian people.

If appointed by tribes rather than by the President, the position of the Commissioner would become more of an advocate of the Indian rather than an advocate of high political powers and big business.

Another recommendation: Governmental financing directly to tribes for education of tribal councilmen and officers for the purpose of building a stronger and more stable tribal government.

Reasons: With adequate pay, tribal council and tribal positions would attract more qualified leaders.

Good leadership through education can and will bring back respect to tribal governments throughout Indian country.

This funding would insure tribal priorities to be taken care of with other Federal funding and tribal income.

The Rosebud Sioux Tribe is sick and tired of the big ripoff, which I know many tribes are aware of. It starts out with big business, comes down through the Secretary of Interior, through the Department of the Interior, through the Bureau. I have heard everybody taking slaps, stabs, kicks, and a lot of verbal abuse of the Bureau, and rightfully so. They deserve it. But they fail to look at the upper part of the people that cause it—big business, Standard Oil, coal companies. The Bureau is within the Department of the Interior. Nobody gets hurt but the Indian. And the Rosebud, like I say, is sick and tired of it.

The only way we can stop this kind of nonsense is with a separate agency to be governed by Indian people. The Bureau should be working for Indian people, not for the Secretary of the Interior or not for any Department, any Senators, Congressmen or even the President of the United States It is time the Indians stopped being the scapegoats.

Speaking for the Rosebud Sioux Tribes: If this Commission is going to pursue and do what it said it is going to do and what it is set up to do, the Rosebud Sioux Tribe will definitely be behind you, and I am speaking for the Rosebud Sioux Tribe.

That is all I have to say.

Chairman ABOUREZK. Jim, that was an excellent presentation. I want to thank you very much. In fact, you have answered all of my questions in your original testimony.

Commissioner WHITECROW. Mr. Chairman, I have a question.

James, I would like to ask you this: In the event we would, say, provide for the establishment of a Commissioner of Indian Affairs to be elected by the tribes, how do you perceive this individual functioning as an advocate for Indian people working within the administrative and executive branch of Government, still taking into account we have got the Office of Management and Budget constantly facing us in the funding operations?

Mr. SHAW. Like I say, I am new to tribal government. I don't have all the answers, but one way, the Commissioner, rather than being appointed by the President, he doesn't have the political powers and pressures leaning on him constantly, and being appointed by the tribes or elected by the tribes, he has got a responsibility there because we are going to be more or less controlling his pay check. And as far as the Office of Management and Budget, I think you have got me stumped. Like I say, I am just new to the tribal government and I don't have all the answers.

Commissioner WHITECROW. Let me just inject this as a point of thought. I would like to ask you to give that some thought and give it some study and follow it up with some recommendations because it is a very definite stumbling block in funding of programs for Indians. It is pretty prevalent at the present time, recognizable all over the country that we do have a Commissioner of Indian Affairs within the present system whose hands are pretty well tied. He is pretty well at the whim and the beck and call of the Secretary of the Interior. If we should perhaps make some recommendations insofar as trying to take it out of the Interior Department and create a separate agency, there are several different types of agencies or different locations for this agency.

I would like to ask you if you would think about this: Should it be under some other department of the Government, such as the State Department, because of the treaty relationships that we have? Or should it be a separate operational commission, thereby allowing the Congress to function as an advocate for the American Indian? When we look at the Constitution of the United States, with the Congress retaining this authority to deal with the American Indian, I would like to ask you if you would think about those things?

Mr. SHAW. I can give you a short comment on it right now. I think if we start changing the Bureau from one department to another, we are back into the same problem we have under the Department of the Interior. My own personal feeling, I haven't discussed it with the tribe, is that maybe the answer would be to create another department, a Department of Indian Affairs, strictly on its own.

Commissioner Whitecrow. With Cabinet status for the Secretary?

Mr. Shaw. You bet.

Mr. Wright. You mentioned the Office of Management and Budget: Why can't the Office of Management and Budget listen to all the tribes and we resubmit our programs and our budgets 2 years ahead of time? They, in turn, make out the budget according to that, rather than us. Like I submitted a program under the tribe, but in the meantime President Ford already proposed a cut in it, they are still having hearings on it. We are coming in after the fact, and we are still operating under the cut for the next year. Rather than all of the tribes having a program and the budget sent in, you know, vice versa, the way it is presently set up, is what I am talking about.

Commissioner Whitecrow. I think we all realize that OMB is probably the most powerful Federal agency that we have. They control the purse strings and any time you control the purse strings you don't have very many words to say once they make their determinations.

In reality, and I would just like to make this as a passing comment, this has been my feeling for many, many years now, but I feel perhaps we do have, or there is a possibility that we would have enough program moneys provided if we could identify all of them. Currently, as you know, they are so scattered out and pigeonholed in every area of Government it is difficult to find them. We have got an awful lot of Indian people that don't know where the money is. If we could centralize them under one department, such as you have suggested, maybe we could redefine and redirect these moneys and still encourage OMB not to reduce any funding but to provide that funding and just redirect it.

I would appreciate it if you would think about that because we must always take into account we have got to have an advocate for Indian affairs within the executive branch in addition to being in the legislative branch.

That is all I have.

[Commissioner Ada Deer assumed the Chair.]

Mr. Tonasket. Could I ask a couple of questions? These are more on the mechanics of the recommendations that you made. Knowing the Federal Government relies so heavily on qualifications for anybody—particularly if you are an Indian, you know, you can't get a job unless you are qualified, then they set it kind of goofy—would you foresee the Government setting down the qualifications for the Commissioner that we would be voting on, or would the tribes be setting the qualifications that could be agreed upon by the Federal Government? Have you discussed any of that sort of thing?

Mr. Shaw. Well, any time the Indian people try to do something, you know darn well there is going to be Federal guidelines handed down from the top. If this separate agency is set up, and the people are strong enough to back it, I would like to see them telling the Federal regulation to go to hell, the Indian people are on deck and are going to set the guidelines.

Mr. Tonasket. Thank you. My second question: Knowing that if we got a recommendation and it looked pretty good that it could be carried out, that Indians would elect a Commissioner or Secretary of Indian Affairs, or whatever he might be: Have you discussed whether that person would be confirmed by the President or by the Congress or both?

Mr. SHAW. I think he would definitely have to be confirmed by the President. I don't think we can take that power away from him. We can certainly make him sit up and take notice and listen to our recommendations, I think.

Mr. TONASKET. That could be drafted in any legislation that is brought out. Thank you.

Commissioner DEER. Thank you very much.

Mr. SHAW. Once again I would like to thank the Commission. I hope the recommendations that you heard today, that you will do something with them and I would like also to thank all the tribal members here from across Indian country for letting me be a part of their day and listening to me stumble around up here. Thank you.

Commissioner DEER. Our next witness will be Warren Means, United Tribes of North Dakota.

STATEMENT OF WARREN MEANS; ACCOMPANIED BY RALPH LePERA, UNITED TRIBES OF NORTH DAKOTA

Mr. MEANS. This will only take 4½ hours.

Commissioner DEER. Would you introduce yourself and your companion, please?

Mr. MEANS. Madam Chairman and members of the Commission, I have with me here today Mr. Ralph LePera. Ralph is general counsel for the United Tribes Educational Technical Center, United Tribes of North Dakota, and today we will be dealing with this presentation together. There are certain areas here that Mr. LePera will be addressing himself to dealing with some of the legal aspects and contractual aspects of the problems that we run into, and I will try to talk in terms of some of the more general areas of concern that we have with the Bureau of Indian Affairs.

I guess maybe I should formally introduce myself here. I am Warren Means. I am executive director of the United Tribes Educational Technical Center.

We have broken down the problem areas that we are concerned with to approximately five or six different categories. The first that I would like to touch on is the area of technical assistance as should be provided through the area office in terms of their ability to provide either sufficient qualified personnel, that is, attorneys, accountants, programmatic kinds of people, that could in fact have a positive effect on the continued efforts of organizations like ours to not only develop sound programs but a continuous kind of positive effort and, of course, dealing with the final evaluation of the programs with which we are confronted.

And as an alternative to that and one that I would think might be even more feasible, would be that the Bureau of Indian Affairs would produce in their budgets an amount of funding that would allow organizations and tribes to engage independent outside consultants to deal with the various problems that we are confronted with and to acquire technical assistance for those areas.

Some of the things that we find to be extremely difficult to deal with in the Bureau of Indian Affairs is their inability to act according to their own guidelines, of which we find there are either a limited number of or that they have guidelines that are in direct conflict with the previous guidelines or new guidelines that may come out.

One of the areas that we find to be of deepest concern is areas such as the precontract audits that are to be conducted by the Bureau of Indian Affairs before entering into contracts with any contractor such as we happen to be. Instead, they will do such things as give us a letter stating that they will accept our proposal or proposals and that in lieu of the precontract audit we will be subject to ongoing types of intervention throughout the contract year. We feel that in order for us to establish a workable base from which we can deal with the contracts themselves, it is necessary for us to have a reasonable understanding through perhaps a precontract audit, of where we have been and where they would like us to go.

Insofar as United Tribes is carrying out what we consider to be a government trust function, that is, the education of Indian people, it would seem to me that the Bureau of Indian Affairs would do everything they could, make every effort possible, to see that this particular function was carried out to the full extent that we are trying to accomplish the same within the confines of the contracts that we have.

Recently we submitted to Congress, on both the House and the Senate side, testimony outlining the absolute need for educational-vocational education programs in Indian country. Vocational education seems to be one of those areas in Indian country that people simply do not like to address themselves to, and yet we find that nationally 88 percent of the people who are going to be in any kind of meaningful employment across the United States—these are all citizens of the United States—are going to be involved in employment that requires some kind of skills or technical training.

Why we have not been able to find that as a priority issue within the total aspect of the Bureau of Indian Affairs I do not know, or within some of the other areas that we have dealt with, such as the National Indian Organizations. It would seem to me that if we are indeed looking toward a substantial economic development on the reservations and a realization of self-determination in its truest form, we must not only measure the amount of natural resources that are available, such as agriculture or mining or timber or recreation, or whatever it might be, we must also measure the human resources that are available there and do those things that would be commensurate with the development of the human resources in direct relationship to the development of the economic base through the development of our own natural resources.

I feel that the Bureau of Indian Affairs has in many ways abrogated its responsibility not only to us as contractors in trying to provide these services but Indian people at large, insofar as they do not—and let me emphasize that—absolutely do not take this on as a viable concern within the total structure. They do not provide for us through their mechanisms, whether it is because of the lack of vocationally oriented people within the Bureau itself or whatever the reason may be the kind of technical assistance that we would need to conduct some very worthwhile and extensive programs beyond what we are presently doing.

With that, I would like to turn this over to Mr. LePera, who is going to be discussing some of the contracting problems that we are faced with.

Mr. LePera. One of the problems that we find when we enter into a contract with the Bureau is that they have a concept of general objectives or goals, that is, in our case we are a vocational training school with a goal of providing vocational training and supplemental adult education to Indian people from the reservations.

Now, once you have entered into a contract both parties have signed, we find that we don't hear from the Bureau until the end of the program or after the program is ended and they come in and they will do certain evaluations on certain programs. We have various title programs there.

What we would like to do and what we recommend is that if we can build into the contracting process a means by which at the inception of a program being signed into effect that we are able to have people from the Bureau who have certain expertise, referred to as technical assistance in many areas, come out to the actual contract location and physically come out there and work with our people at the initial stages, to be able to forecast and promulgate and anticipate and work with these people so that they can come up with a program for future action. This covers all the educational programs.

In addition to that, we should have an ongoing relationship with the Bureau so that we can call up or write or talk with these people whom we have just contracted with and who should obviously have an interest in what is happening with the program, to be able to call up and say, "Listen, we think we have a problem in a certain area. Can you send someone out or some people out to look it over and give us some advice, or can we, conversely, come to you and we'll bring you the problem?"

And then, of course, which is in existence now, is the final evaluation, but I would think and I suggest that to have a meaningful evaluation of a program you need to have this continuity throughout the program.

Commissioner Whitecrow. Excuse me, Mr. LePera.

Mr. LePera. Certainly.

Commissioner Whitecrow. May I ask you a question? Have they made any attempt whatsoever to write in any of your contracts any type of an evaluation program provided either on a local basis or from the funding agency that is performing the contract?

Mr. LePera. The only wording that we have in our contract states that upon request we can seek some assistance from the contractor, which are just words, and they don't have the people there.

Commissioner Whitecrow. You are saying, then, that the Bureau is not setting up the same kind of an evaluation process, let's say, the Department of Labor might do with their CEDA program?

Mr. LePera. As far as I know, what happens with CEDA, I would agree that is correct. There is not an on-going give-and-take communication evaluation, whatever term you want to put on it. It is at the beginning of the year and at the end of the year, and sometimes it is not even at the end of the year in some of the programs.

As an aside, a contractor such as us, who are intertribal organizations, the contract that we put out with the Government is substantially less than if the Government were to contract with, say, Bendix Corp. or some of the other outside organizations to perform the same function. So, in essence, they are getting a good deal, so to speak, on the contract price but they are still not getting the quality as far as the unavailability of these experts.

Mr. Deloria. What items are left? There is no profit built in. Are there any other items that a private corporation would be paid for that you are not paid for in the contract?

Mr. LePera. They would be built into the contract when the bid would be made. They would be costs and figures for these types of consultants. They would either have them on staff, which would be built into the contract, or they would have it built into the contract where they could go out and obtain the consultants.

Mr. Deloria. They don't allow you to budget for consultants at all in your contract?

Mr. LePera. That is correct. We are basically given a figure which is available. At the present time we are talking about anywhere between—base contracts—$1.4 to $1.5 million. Within that figure we are told that we have to perform a certain function, and that is: educate and provide training facilities for "*x*" number of Indian type people, with certain other services that are to be rendered.

Mr. Deloria. And there is no allowance for an internal evaluation?

Mr. LePera. That is correct.

Mr. Means. We have made the request every year since I have been at United Tribes, and that is going on 4½ years now. To date we are to receive a positive reply along with that technical assistance or that assistance to complete a precontract audit. For instance, it seems that they are much more willing to continue on with this idea in mind that it is simply OK to run on the basis that they have in the past and then to be able to come in and find some degree of fault with what you are doing as opposed to developing the basic concept from which you are to run.

Now, in addition to that, and one that I would like to point out here and Ralph can pick up and continue on, is that the problems seem to center around the fact that they are not sensitive to the total scope of needs that exist within an intertribal organization such as we are, in trying to provide the kinds of services that we are mandated to provide by contract. They, in turn, do not seem to have available to them the expertise to draft up a contract that would be meaningful to the particular situation that we are dealing with. Instead, they come in with a boilerplate kind of contract that they apply to everything, from construction to educating people, and that does not fit us, and then they ask us to develop the basic language of the contract to fit our needs even though some of that language will in fact fly directly in the face of the boilerplate that they have attached to that.

Mr. LePera. As an example, we have a contract with the Government, and as anybody who has ever done a contract with the Government knows, there are certain general provisions you talk about. Then they have these boilerplate provisions, and one of the sections in there explicitly states on the cover that these conditions and terms shall not apply to educational type institutions, which, of course we are. When that question was posed to them it was a 2-week period of time before enough correspondence had taken place apparently internally and the word was: "Listen, if you want the contract, you take everything with it."

And so I posed the question, "Assuming we were to violate one of those terms and conditions and it expressly said it didn't apply to us, what would take place?" And, of course, the answer was, "We'll worry about that when the time comes" or "Don't worry about it, period."

As another example of what Mr. Means was addressing: Three years ago the technical expertise in the local area office was at a low level. I don't mean that the people there are not competent people. What I am referring to is they don't have enough people in certain areas that we had the right to contract for the Bureau so that they would be able to have a document with which they could sign off.

Now, that, of course, didn't really bother us to the extent that we were writing the document, but what it did was to put us in a position that we had to write the document, then defend the document, and then redraft and rework the document themselves. I don't feel that that is particularly the function of our particular educational institution. Since the times and efforts—*x* number of dollars come in to us and that is supposed to be devoted for the training and education of students—and what we are doing in essence, in many instances, is doing government type work which we are not being reimbursed for and it does not provide within the contract indirect costs for doing the actual negotiations with the Government, if I make myself clear at all.

Mr. GOETTING. What you are saying then is: After you write it and you know the intent of it, they come back and evaluate on what they think the intent ought to be, and then evaluate your program as to whether or not it is successfully complying with the contract?

Mr. LEPERA. I don't even think that probably is correct. The first point I am hoping to make is that built into the contract are certain line items. We are not a profit organization—such as United Sioux, such as other intertribal organizations, but we are not a profit—and we requested and expected to do certain things within the contract for which we are not being reimbursed.

2. The area offices themselves are not adequately staffed to be able to fulfill their portion of the contract.

Mr. DELORIA. When you refer to a need for technical assistance: Are you talking about basic management assistance, just in performing the contract, or by technical assistance? Do you mean assistance on curriculum and the substantive part of the program?

Mr. LEPERA. We are talking about both.

Mr. MEANS. What we would like is to be able to have somebody there that we could bounce the merits of our program off of and get some response from them as to whether or not we are doing what they expect us to do within the parameters set forth and limitations of the contract.

Mr. DELORIA. It is not really so much that you need technical assistance as you want contract monitoring so you don't find out at the end of the year that they have decided you were doing something wrong all along which you would have been glad to change if they would have told you at the time.

Mr. LePera. I think that is a very clear statement of what needs to be done after the contract is signed. Now, we are going to discuss, and, hopefully, deal with the problems that are involved in actually getting the contract signed.

Mr. Deloria. Just one more question. Are these contracts going to be converted to Public Law 93–638 contracts?

Mr. Means. I presume this is the only authority they have at this time that they are dealing with. Is that correct?

Mr. Deloria. You can presume anything you want.

Mr. Means. Well, I don't know. What is the Commission finding out on that?

Mr. Deloria. I understand that while 638 appears to be exhaustive, they also reserve authority to contract for other purposes on other issues, so I guess it is still up in the air.

Go ahead.

Mr. Means. I would like to point out one other thing, and that is leading into what Mr. LePera has just mentioned, and that is, the negotiation process leading to the signing of the contract itself. In actuality, there is no negotiation. There are Federal guidelines set up saying that they will negotiate with any contractor that they are entering into contract with, and from those negotiations they will develop a reasonable contract agreeable to everyone.

All right. What we know is that they have *x* number of dollars that they are going to allow us to have. The negotiations amount to: Will we accept that amount of money to conduct our business on for a fiscal year, or will we not?

In the past 3 years, at the beginning of each fiscal year, the Bureau of Indian Affairs has been put on notice during this negotiation period that there is absolutely no way that they could anticipate our being able to live within the limitations of that contract for that kind of time. That we would be looking for some kind of end-of-year money—if you please, or whatever—at the end of the contract period.

The Bureau of Indian Affairs agrees with us that the money is not going to extend through the full contract year but they say that that is all that they are going to be able to extend to us.

Now, this does not amount to negotiation to me because we are not dealing with anything. We know, they know, and either we settle for it or we don't have it, or it is going to be gone.

Mr. Deloria. Do you negotiate on the scope of what you are supposed to be doing?

Mr. Means. Precisely.

Mr. Deloria. With that amount of money we can serve fewer participants?

Mr. Means. Yes, we will negotiate on those. But in the contract they maintain and will maintain that there are certain services that have to be provided for within the scope of that contract, which obviously are going to be extremely heavy burden on the contract funding itself. One of them is to keep, for instance, the facilities in a good state of repair and usable for educational facilities.

Now, last year we spent in excess of $600,000 keeping some nearly 1,900 facilities operational.

This is where we end up in a terrific bind. What we have said to them year after year is very simply:

> We are taking employment assistance funds which are designed for an educational purpose. You are forcing us to utilize those for supportive services, for administration, and for social services.

We feel that in order to bring about a substantive change, which I think is going to be necessary because of the Federal requirements that are placed on the Bureau of Indian Affairs as well as us, that they are going to have to look at being much more specific on where the funds within the Bureau are appropriated and where those funds are going to come from to get to the United Tribes for operation and maintenance of our facilities. If we can in fact do that, then we have got another negotiation base from which to work, which I think is reasonable to deal with. This also works with the social services area.

Commissioner DEER. Do you have any major recommendations? You talked mainly about the contract, your program and the Bureau and several suggestions on how this can be improved. But do you have other substantive recommendations dealing with the restructuring of the Bureau?

Mr. LEPERA. What we have been referring to, and what we are assuming, is that the Bureau or the Department of the Interior is going to keep the present structure. That is: We deal directly with the area office and the area office then deals with Washington, D.C. Now, assuming that that same structure is to exist, we would then recommend that the area office be provided with sufficient technical assistance to support the purpose of the contract or build into the contract funds to obtain technical assistance independently.

So that is our first recommendation as far as the area of technical assistance. I think we have covered somewhat the reasons why we need that and what the problems are.

Now, the second one that we have listed, and they have no priority as far as listing, deals again, if we are going to deal with the area office, that that area office actually have the full authority to negotiate the contract, and they do not have that. They have the authority to sign off contracts but they are working within a limited scope of authority and each time something arises or an issue arises that is outside of that particular set of guidelines, you are then talking about 1 week to 2 weeks or maybe longer while they clear it in other areas. Anybody who has worked in those areas is familiar with the problems there.

Another area which we have as a suggestion is that these contracts themselves should reflect the objectives of the parties. That gets around again to what we have been talking about. When you have sets of boilerplate terms and conditions that are contained within a contract that have absolutely no bearing or significance on the particular objectives and purposes of that particular project, they should not be there. An example Mr. Means has cited: Maintenance of structures that have run into thousands of dollars which are not provided within the contract but the contract says you are to do these things.

Another example is insurance. We are required to insure these old fort buildings, military barracks buildings, and the premium, last count, runs approximately $32,000 to $35,000 a year. We don't comply with it. We are in violation of that contract because we don't have the money. We would either have to close down one of our programs or we would have to double our classes. One of the things we pride ourselves on is the small working classes, the teacher contract, the small ratio, and we just don't do it. I guess that was a statement against interest, or whatever, but that is the way it goes so far. That would be the third suggestion that we have. Mr. Means will then go into and talk about working into the budgetary system.

Mr. MEANS. One of the problems that we found, also, is the fact that we are never included in the budgetary process of the area that we come from. Now, I have had some confirmation from the budget people in Aberdeen at this time that henceforth we will be included, but this is still absolutely no guarantee. We feel that we must go in with our budgetary requests, that these need to be, by necessity, made a part of the need column in their band analysis, and that this has to receive the support of the Bureau of Indian Affairs through that band analysis approach.

We understand full well that this does not necessarily mean that the funding is forthcoming from Washington, D.C., for that, or that Congress will be agreeable to it or any of these other conditions that are placed on it. The fact is that unless we show in the need column that there is that need existing within our overall structure, then there is absolutely no way that Congress can in fact justify additional appropriations for our organization when the Bureau of Indian Affairs does not even recognize that as a need.

So we would recommend—and again assuming that the present structure is to be maintained, and hopefully, some modifications will come out of this to that—but if that is maintained, that we would certainly be included in that budgetary process, and if it is not maintained, that we also be included in the budgetary process.

Mr. TONASKET. Could I ask one question while we are talking about the budget? Does your school get funds from HEW besides the Bureau of Indian Affairs?

Mr. MEANS. We have some programmatic funds that we apply for like everybody else.

Mr. TONASKET. In line with that, then, what would be your feeling about consolidating all Federal dollars for Indian programs? The question was asked of other witnesses: If we could take all of the millions of dollars from HEW, HUD, and all of that, and put it into one pot, would that help you or not?

Mr. MEANS. Let me say this. I have never particularly been an advocate of the Bureau of Indian Affairs but I have always felt that the Bureau of Indian Affairs is the sole administrative force that we have to get into various areas because of the fact that many of the other agencies have a primary function that seems to disregard our needs. It has been mandated to look after us, so to speak.

My feeling is that in an effort to expedite Federal funding into the Indian communities and Indian organizations such as ours, that provided the right mechanism is developed and the streamlining of the Bureau of Indian Affairs in fact takes place, that I would be most supportive of allowing them to administer the funds that were directed to the tribes. I do not feel at this time that the Bureau of Indian

Affairs has that ability. I don't feel like they have that level of authority. Along with some of the recommendations that have been made out of this Commission to provide a cabinet level post, I believe that in that event most assuredly all Federal funds dealing with Indian programs should find their source through the Indian Affairs area.

Mr. DELORIA. Do you have recommendations regarding restructuring the Bureau of Indian Affairs or moving it elsewhere in the Federal structure?

Mr. MEANS. Yes; I do. We were asked to deal most specifically with our relationship with the Bureau, as far as intertribal organization is concerned. But if it is proper at this time I would like to make some remarks in that respect. I know, first off, that my feelings on this are not those of the tribal entities throughout the United States necessarily, but I think that a very broad view must be taken of the total Indian affairs structure. There should be a cabinet level post established. It should have available to it its own counsel. It should be able to take the best interests of Indian tribes into consideration and fight for those rights in the true trust relationship.

Commissioner DEER. Could you summarize——

Mr. MEANS. Madam Chairman, the point is that the Bureau of Indian Affairs should be removed from any conflict of interest that it presently rests in with the Department of the Interior. It should not be an assistant secretariat level: it should either be a separate Cabinet post, or it may as well remain where it is.

The fact that it is not functioning well now does not mean it is going to function any better if it is made an assistant secretary position. All it is is a name change for the guy that is running the show in Washington, D.C. What I would like to see done is a Cabinet level post established.

I would further like to see a diminishing of the area level responsibilities. I would like to see those responsibilities deal more specifically with providing technical assistance to tribes. I would like to see a plan developed by each tribe so that that tribe could take a look at the economic resources that are available, the development of these resources, and the development of the human resources. That over a period of time—maybe 1, 2, 3, 4, 5, 10 years—that the tribes themselves would be administering all programs on the reservation and that we would be able to remove from the agency level any Bureau of Indian Affairs people that may presently be residing there.

Commissioner DEER. Any further questions?

Commissioner DIAL. Do you have any objection to the office being in Washington, D.C., as a Cabinet post?

Mr. MEANS. I think that would be the appropriate place for it.

Mr. LEPERA. In summary, Madam Chairman, I would just like to summarize this in words for you in dealing with it. Skipping back a little, our recommendation No. 4 would be that intertribal organizations which are performing a trust responsibility on a continuing year-to-year basis be given access to and participation in the Bureau of Indian Affairs budgetary process. We feel this would avoid potential conflicts with tribal government, so there is no issue about competing for funds. It would avoid wasted efforts and would provide a meaningful basis by which organizations, such as ours, would be able to do future planning.

The last area that we would like to touch on and make this body at least aware of—as far as intertribal organizations contracting with the Federal Government, and specifically our instance—is that there is no meaningful process for evaluating the program.

Now, we will cite very briefly what is happening right now at United Tribes. The Government, through its offices, audit and investigation, has compiled an audit report which is doing two things. 1. It is doing an accounting as to the accountability of funds. This, we feel, is certainly a proper function of a Government auditing office and accountants themselves. But they are also performing an audit and evaluating whether the goals and objectives of the parties have been fulfilled. We suggest that this is not the proper function for Government auditors solely to perform. The significance of what they are doing I think is tremendous. You have the possibility of termination of the program altogether by the recommendations and findings of these Government auditors.

2. If they don't terminate the program they can substantially affect the level of funding for the next fiscal year.

And so what we suggest is: If you are going to have an audit, and the purpose of the audit is to put the Bureau of Indian Affairs in a position as to whether or not they can evaluate a program, that that evaluation process must be meaningful. You must have people who have sensitivity, not just some Government auditor coming out there and looking at figures without having in the back of the mind what is the program doing. Is it reaching out to Indian people? It is bringing them in there and it is doing things, so that they criticize potential features of the program that are peculiar to that type of a program. You don't find them if you are doing a Government audit for General Motors. You would not have things such as pow-wows and newspapers and legal services, and the auditors wouldn't be talking about they can't understand why lawyers for the corporation are obtaining divorces or involved with divorce work for their people.

They don't understand and they don't realize that part of the whole process of putting a person into a position where they are self-sufficient is not only to educate them and not only to help and not only the other aspects, but also to put them in a position that once they have obtained their certificate of completion, that they can go out in the community.

Commissioner BORBRIDGE. Madam Chairman, I would like to interject the comment here that I am persuaded already. I think it would be very helpful if we got to the point of other witnesses coming up.

Commissioner DEER. I would just like to speak to that point. We were in the Minneapolis area office with the contracting staff last week, and we are going to ask in our contract next year that we have moneys for our own tribal evaluation of the program. So you might want to consider that.

Thank you very much.

Our next witnesses: Pat McLaughlin, Bob McLaughlin, and Chaske Wicks from the Standing Rock Reservation.

STATEMENTS OF PAT McLAUGHLIN, ROBERT McLAUGHLIN, AND CHASKE WICKS, STANDING ROCK RESERVATION

Mr. PAT McLAUGHLIN. Madam Chairman and distinguished members of the Commission, my Indian name is Wambli Topa, which means Four Eagle in our language, and I am the elected chairman of the Standing Rock Sioux Tribal Council.

Our tribal council has instructed me to present to this Commission this written testimony for inclusion in the record of this hearing.

Our tribe occupies a part of our homelands which are located in an area in the south central portion of the States of South Dakota and North Dakota, which take in two counties. Corson County, South Dakota, and Sioux County, North Dakota. The original boundaries of our traditional homelands were first established before any treaty relationships with the United States. The Fort Laramie Treaty of 1851 firmly established boundaries recognized by both the United States and the Teton Nation and these were reaffirmed in the Fort Laramie Treaty of 1868 which was also ratified by the U.S. Congress in 1869 and signed by the President.

We are a tribe that is proud of the accomplishments of our traditional tribal leaders, such as Sitting Bull, Gall, and others who fought for their homelands and who, in good faith, negotiated treaties with the U.S. Government representatives on behalf of our tribe.

Today, I am pleased to present this written testimony before this very important and distinguished Commission. I have brought with me two enrolled members of our tribe to present a summarized statement of our written testimony, Robert W. McLaughlin and Chaske F. Wicks, director and associate director of our Tribal Office of Planning and Development. They will assist me in answering specific questions if there are any.

I believe that many people throughout Indian country know and recognize my brother Mato-Sheetza which means "bad bearer." So at this time, Chaske, will you please summarize briefly. We don't want to take too much time.

Mr. WICKS. Thank you, Chairman McLaughlin.

Madam Chairman, distinguished members of the Commission, it is an esteemed honor for our tribe to be able to come here and present our written testimony and our oral testimony. As an Indian, the first thing I am going to say, our tribal chairman received a mailgram that stated that Senator Abourezk, who heads this committee, would be here. He is conspicuous by his absence, as well as other elected members of the U.S. Congress. It is unfortunate that we as Indians, have negotiated treaties in good faith with the U.S. Government, always have to deal with representatives of that Nation. We, as Sioux, have always considered ourselves as a sovereign nation, and this is confirmed and verified by our written testimony. And all of us, as Indians—regardless of whether we are Sioux, Osages, Cherokees, it doesn't make any difference—have always had to deal with the bureaucratic thing. I am sorry to say and I am sorry to see that we have so many Indians sitting up on this panel representing the Government that has violated the treaties that our forefathers have signed in good faith.

This Commission was established to resolve all the problems in Indian country. Brothers and sisters sitting on that panel, I would hate to bear the robe that you are bearing today, because I do not see one elected Member of the U.S. Congress present.

We, as Indians, have always dealt in good faith, and our written testimony shows that. As far as I am concerned, as a member of the Standing Rock Sioux Tribe and as a descendent of Rain-in-the-Face, a hostile Indian, my personal feeling is I don't even feel like giving oral testimony or a summary. I know you have the written testimony. So thank you very kindly.

Mr. McLaughlin. Thank you very much.

Commissioner Deer. Thank you for your testimony.

I would like to say, speaking for myself as a member of the Commission, I do not view myself as representing the U.S. Government as a member of the Commission. I am a Menominee Indian and was selected as an Indian member, and perhaps the other Commission members might want to respond to some of the points that were made.

Our next speaker, Mr. Al Trimble from Pine Ridge.

We are a little ahead of time for him, so he may not be here in the hall.

We have a number of unscheduled witnesses. At this time I would like to call on Lucy Covington from the Colville.

STATEMENT OF LUCY COVINGTON, COLVILLE TRIBE

Ms. Covington. The Commission, and the other parties of the group. I really didn't request to be heard. I just mentioned that I did sketch some things here when the Senator mentioned that no one was coming up with any kind of plan. The Colville Tribe did not wish to testify at this time, and earlier someone did ask if I would like to bring out one matter that we had a conflict with.

I am Lucy Covington from the Colville Business Council, with the trust responsibilities, where there are certain funds set aside for this tribe to fight for their rights. Earlier in the year we were promised $100,000 for our litigation on the *Walton* water case, which has gotten pretty serious in this last year.

Earlier in the year when I went to see the Commissioner, by appointment late in the afternoon, he had already left for Alaska, so I was told, and his secretary hung up on me without giving me a pass to go in to see whether he was there. So I got other friends to see, I thought maybe he was in there. He just did not want to sign this release. He has the authority to sign that release. He did not have to go to Taft, who is the Attorney General, I believe, or to the Department of Justice, and this is where he went and they did not want this money released.

Finally, I did get a hold of him and talked it over. He said he would personally see to it and talk to them, and when he did, he said that they had decided if they would release that $100,000, then they would want all the data that the Colville Tribe themselves put together for this case. We have kept it to ourselves because we did not want the Department of Justice, who is an adversary to our case, they were asked to join but since they refused we don't feel they should have any of this data.

Well, naturally, I couldn't sell our Indian rights, and that is what this is, for $100,000. So when I got back and reported to the Council, we wrote a letter and wanted them to let us know what it is—we are not sure what they want and to let us know why others in the Department of Justice directed the Commissioner of Indian Affairs not to release that money. It is a big problem because we started the whole project when they said that they were going to let us have this $100,000—the program is there. I think this is one problem which is a conflict of interest, which is very important.

I think the reason Sam Cagey came by here, he stopped by and asked me if I had any ideas of how to restructure the Government. I said, "Why, of course." I didn't know he was going to get me at this time. I know one sure thing, we do not want the area offices any longer. We have requested this many times to the Affiliated Tribes of the Northwest Indians, I am the first vice president of that organization.

We have problems with funding, when they say you work on a budget and come and negotiate; we tried that at the time, both Mel Tonasket and myself, we thought we could make some changes down there but those changes have never been made. They are still there, and all the other tribes are having the same problem.

The conflict on the water codes I think started when the National Water Commission held those hearings all over the country, and when we testified in the Northwest there were strong statements that they were trying to regulate our waters, and they had no right to do it.

After that, the Department of Interior gave us some regulations that they had drawn up without our input. Immediately we called a meeting which was held in Spokane, and objected to those water regulations.

At that time—to make my statement as short as I can—we decided, and the Department of Interior and the tribes agreed that the Indians themselves would write their own regulations and come up with water codes. That is what ours became—we wrote a water code to regulate the waters on the Colville Indian Reservation.

Other tribes have sent written water codes that affect their reservation. These were all mailed in to Washington, D.C., for the Secretary's approval. He has refused to approve any and they are very good regulations. They are to be regulated by the tribe, not by the Secretary of Interior. He has never used that authority and I don't believe he has that right, and that is the reason we have the *Walton* case.

There is definitely a conflict of interest in water, not between only the Colville Tribe but all other tribes, and they are losing this water. No land was set aside and there is nothing in the treaty or the Executive orders that you only get land and no water. I don't believe any Indian or any tribes have said that they have sold their water. So who should own the water? I don't think we should have to litigate it. It has cost us over $100,000 a year to litigate our water cases.

One of the main things, I think, and I believe many tribes here would probably say the same thing, the Department of Interior and the Bureau of Indian Affairs have scared the Indians for many years saying if they get out of the Indian business, we would lose our trusteeship, and we know how dear that is. Ada Deer went through it, we pretty near went through it, so we are very familiar with what that could be.

So then our thought, after Senator Abourezk spoke here—now, this is my personal idea and I will probably have my mind changed by tomorrow morning—that if we had a separate Cabinet post set, away from all the conflicts of interest in the Department of Interior, then we should have a Secretary of Indian Affairs. That Secretary of Indian Affairs should have an Assistant Secretary of Indian Affairs; then there should be an Assistant Secretary of Trust Responsibility, who is an advocate of Indian affairs.

There should be an Assistant Secretary of Natural Resources, and there should be an Assistant Secretary for the administration of all these offices.

The Commissioner of Indian Affairs then should come in to coordinate affairs of the recognized tribes that are landowners, and he should have an assistant to handle the federally recognized tribes that need Federal funding, and also he should assist them to find out why these Indians who are recognized federally, Indians of the United States, Indians of North America, who lived on this Earth a long time before anybody else did, why do they not have land?

All these changes, if any should happen, if there is a wish for two separate offices, one in the East and one in the West, any of those things that were talked about today, all of these changes should not have any effect on our treaty and our Executive orders. A law should be enacted and there should be a guarantee of their sovereignty through Congress. They should stand behind their moral obligations to the Indians and the Indian tribes, and they should have a recognized voice in selecting people to these posts that I just mentioned.

I think that is all. I just happened to speak up when Sam was whispering to me, and this is how I happened to be up here testifying. I won't take any more of your time because I have nothing prepared to do so, Madam Chairman.

Commissioner DEER. We do have the provision that information can be submitted. The record will be open for 30 days.

Ms. COVINGTON. Thank you.

Commissioner DEER. Is Al Trimble here?

STATEMENT OF AL TRIMBLE, PRESIDENT, OGLALA SIOUX TRIBE, PINE RIDGE RESERVATION, SOUTH DAKOTA

Mr. TRIMBLE. Al Trimble is here.

Hon. Commissioners and task force members, I am Al Trimble of the Pine Ridge Reservation in South Dakota and president of the Oglala Sioux Tribe. Prior to my entering tribal government I spent some 19 years with the Bureau of Indian Affairs serving in a succession of roles from agency program officer through chief of a program operation in Washington, D.C., and also the superintendent of my own home reservation, Pine Ridge.

I have some notes here I would like to read into the record. Your staff has agreed to take the notes and make more appropriate copies for your use.

I was removed from the Pine Ridge superintendency a little over 1 year ago for the announced reason of having irreconcilable differences with the tribal president and his administration; but I am convinced that my questioning of the Bureau's sincerity in advocating for policies and decisions favoring tribal interests also played a large part in the Commissioner's decision that I should be removed. I am also convinced anti-self development and anti-self determination forces in the Aberdeen Area Office of the Bureau of Indian Affairs contributed in large measure to the Commissioner's decision.

I wish to enter into the record a copy of the Pine Ridge Indian Land Use Report, which I don't have right in my hand right now but your staff does have a copy of it and I wish to enter that into the record as a part of my testimony. This report demonstrates a systematic pattern of land usage and acquisition by certain parties on the reservation which unquestionably leads to nonavailability of Indian lands for Indian usage and ultimately to alienation of the Indian land base.

This is patently abetted by the Bureau of Indian Affairs and has been especially manifested by the attitudes of key staff in the Aberdeen Area Office.

I can also refer to the case of one Clair Combs, a large-scale non-Indian rancher on the Pine Ridge Reservation, who has a range capacity of some 2,400 head, who was operating a brucellosis-infected herd on the reservation in violation of Federal, State and tribal laws and regulations. When, as superintendent, I acted to cancel his grazing permits I was countermanded by the area director. Now, 1½ years later, this operator is still on the reservation, still with an infected herd.

I had attempted to stop Indian land sales to parties who have been known to fee patent lands simply for the purpose of gaining finances to purchase more Indian land, using the very questionable and liberal guidelines of the Bureau of Indian Affairs, which permits certain Indians to gain both the preferential use of and title to Indian lands, with no tribal interest in mind, but with only individual interests in mind. The Bureau preferred not to advocate in the Indian interest but instead, cited the right of tribal members to acquire lands even in the face of performance adverse to tribal interests.

In citing these as some examples of my differences with the Bureau of Indian Affairs, I reaffirm my conviction that the Bureau does not act consistently in the interest of tribes and the members of the tribes who need the most help but may more consistently act against tribal interests.

Add to this the fact that the area director and staff by common agreement usually maintain all communications with the State government, apparently on an accepted collateral basis. The area office will remain controversial and not acceptable to tribal groups so long as that office functions as a super-agency with a super-superintendent and a force and staff consistently acting to oversee the U.S. Government's relations with tribes and Indians. The effect of this office is to make much less than meaningful any real working relationship developed on the local agency level and certainly leads to serious questions about real delegations of authority and decisionmaking ability of the agency superintendent.

We have had serious situations at Pine Ridge where arbitrary and capricious administrative decisions on the part of the area level administration have contributed to the stalling of badly needed financing for tribal land acquisition programs. This stalling has now led to a situation where nearly 40 Indian landowners are demanding fee patents for lands because the tribe is unable to purchase. Many of these some 6,000 acres were bought by Indians under questionable policies for the express purpose of resale for profit.

One matter of particular objection regarding the area office role is that of apportioning funds to agencies, tribes, and reservations from that level. Aside from the purely unacceptable political power it places in the hands of the area director, it also leads to a magnification of his administrative power and maintenance of staff and overhead. This is extremely burdensome on the Indian programs which are intended for Indians at the reservation level or where the help is needed.

In returning to the political power aspects of the allocation of funding by the area level, we have seen actions which seem patently designed to reward, appease, or punish agency administrators or tribal leaders. I can refer, for example, to an Aberdeen Area Office project which "granted" for administrative development $50,000 to all "large" tribes—and by large tribes they included those having populations of 500 to 12,000, and $25,000 to "small" tribes, and in this category they listed those with populations of less than 500.

We, at Pine Ridge, refused and simply demanded to use whatever was required for this purpose from the money we had coming. Needless to say, though, you can't blame some of the smaller "large" tribes for being quite gratified for the $50,000 windfall. But look at our situation. Had we simply been permitted to use our share, which we undoubtedly contributed to on the scale of our proportionated right to the money, perhaps we should have used $400,000. In the consensus of tribal leaders, though, to the area director a vote of the smallest reservation leaders counts as much as Pine Ridge's.

Pine Ridge duly notes, also, that in some grant funding areas like the Indian business development grant fund, ours is no larger than other reservations with some 4,000 or more or less population than Pine Ridge. Such, I believe, is the political bent of area directors in dealing with tribes.

It is not unnoticed to tribal leaders that during the very period of the last several years that the function of area offices has been most questioned and criticized by tribes, the Bureau of Indian Affairs has moved to strengthen and entrench the role of the area director. In the very legislation designed to give more power and self-determining ability to tribes and Indian people, the regulations for implementing Public Law 93–638 are saturated with references to approval authorities vested in the area director. This, of course, will very quickly be interpreted to additional workload and need for staff in the area offices.

Adding this to a system already using gross amounts of funding utilized at the area level, thus not reaching Indian people needing services, would seem unconscionable.

We note at the tribal government level a very strong need for the lateral usage of BIA technical assistance staff to implement the programs which are readily developable. We note the need for objective communicators, also to work on a collateral basis to assuage fears and doubts about policy direction. It is extremely ironic that despite the general Indian dissatisfaction with the Bureau of Indian Affairs program administration over many years, it is the very Indian bureaucrat who can strike the most fear of change in the minds of Indian people, inciting their mistrust of inexperienced tribal government and its probable effect on the takeover and operation of programs.

The Sioux people are deeply disappointed in the statements of our Indian Commissioner, Morris Thompson, in testifying against the congressional award of some $85 million in interest on the Black Hills claim. In his rationalization that it would be unjust to other tribes who did not benefit from such action, he just as surely closes the door on the tribes that might benefit in the future.

I personally refuse to believe that a just man can harbor such ideas and I feel Morrie is a just man; just as I think he is simply reciting Interior on OMB policy. I sincerely believe that Indians will not receive justice, or even equitably what is legislated for them until we are placed in a separate and independent agency status by Congress. For Indians have known for years that western resource interest, recreation and parks are of far more concern to the Department of the Interior, and the non-Indian Westerner is far more esteemed to them, also.

It seems obvious to the Oglala Sioux Tribal Government that some direction must be set in these structures that purport to serve us. Do we strengthen the local BIA program coordination process or do we abandon it in favor of the superagency at the area office level? It appears that the BIA has already decided on the latter course, thinking that this must become a necessity in the fact of Public Law 93–638 program takeovers. We disagree. We feel that the agency level operation must be strengthened with a local administration having complete authority and responsibility for decisions pursuant to the legislated and pronounced administration program direction.

We do not deny that the area office, serving as an administrative service center, can provide useful overhead administrative and housekeeping functions. But we do feel that the area director, as a super-administrator, is a function and role that has proven counterproductive to Indian development efforts for the Oglala Sioux people of the Pine Ridge Reservation, at least.

We have now gone through several months of relative peace and tranquillity on the Pine Ridge Reservation. I like to think it follows a good election and a pledge to the people that honest and constitutional government for the people and by the people will return. The BIA now graciously pledges its utmost cooperation in reestablishing services that indeed serve the needs and interests of all the people.

The BIA, in fact, even indulges occasionally in self-appreciating observation that its policies really are going to work at Pine Ridge, after 3 years of riding out the turmoil without essentially changing their policies or methods. I state here that I hope nobody really believes that Pine Ridge is now, and will remain, domesticated, calm and serene if promises are not kept. If things do not really and essentially change I believe Pine Ridge and many other Indian communities will suffer turmoil and self-recrimination that leads to social disorder if promises are not kept. For this reason I mean to try to keep promises I made. But I can already sense the futility sometimes of depending on the national promise to Indian people if the delivery is placed in the hands of people not dedicated to justice and equality for Indians. If there is no perception of real Indian needs, then there is little will to deliver.

So, since the delivery of a new self-determined, Indian-accepted quality of life for Indian people is actually dependent on legislative programs and appropriations there is much to be changed before tribal leadership can effectively serve its people. The best and most honest tribal government will simply be a semieffective model unless it can effectively serve the needs of people. This it cannot do without realistic appropriations and honest delivery of programs and services to the people.

I would further observe that many good and effective tribal governments have been discarded by the people, called ineffective by their own people and the Federal Government alike, because they really had nothing to deliver. The Federal Government and the bureaucracy had rendered it ineffective because of a faulty delivery system. Perhaps a recalling of the promises contained in the Indian Reorganization Act will best point this up.

For example, we were promised a review and approval authority over the BIA budget serving our people—still undelivered. We were promised complete Indian preference in jobs, apart from U.S. civil service. This is not only undelivered but further abrogated by new Department of the Interior polices on Indian preference.

Again and again in our dealings with the system we find policies adverse to tribal government that seemingly can neither be justified by existing law nor changed. We also consistently find that the stewardship of these adverse policies are vested in anti-Indian interests in the Federal Government who always purport to be serving law or policy, never Indians.

The Oglala Sioux Tribe appreciates and commends the work and direction of the American Indian Policy Review Commission. We cannot be the authors or architects of the new structure needed; we have too much to do at home. We do entrust this matter into your hands.

I appreciate your inviting me to attend. Thank you.

Mr. DELORIA. President Trimble, do you feel that immediately prior to your departure from Pine Ridge previously, that you in fact did have irreconcilable differences with the tribal government?

Mr. TRIMBLE. I believe that I had differences that I couldn't reconcile with good conscience under the law as I understood it.

Mr. DELORIA. Can you describe in somewhat more detail some of the kinds of differences of opinion or policy that you had with the tribal government at that time?

Mr. TRIMBLE. I can cite one example where the then president of the tribe acted in support of a group which conducted unlawful activities—selling of beer and liquor on the reservation in violation of both the tribal code and Federal law. I could get no support from my superiors in trying to cope with this situation, and most of the Oglala Sioux people still believe the law provides as it is written in the code, that we cannot sell beer, wine, or liquor on the reservation.

Mr. DELORIA. When, for example, you as superintendent raised the issues of leasing of land and ownership of land with the area office: Was the tribal government equally concerned about this pattern of land control, or were they pressing for changes at the same time?

Mr. Trimble. At the time that I brought these to the attention of my superiors in the Bureau of Indian Affairs, in my mind there was no effective tribal government at Pine Ridge.

Mr. Deloria. Were you ever given any reason by your superiors in the Bureau of Indian Affairs, were you told that you were wrong in your analysis, or that the Federal policy did not support the position you had taken? Were you given a definitive answer?

Mr. Trimble. The area director told me I was wrong, and his staff did so in correspondence. I appealed, using the appeal procedures in title 25. I appealed to the central office and they were fairly gracious in their reply. They commended me for my concerns, and so forth, but still chose not to act. One of the reasons they cited was that it did not appear to be a tribal policy. But at that very time, as I say, we did not have an effective tribal government to address it to.

Mr. Deloria. I have a question which you may not feel comfortable in answering at this time. If not, you can decline to answer it, of course.

As I understand the enrollment provisions of the tribal constitution, there is no minimum blood quantum requirement for membership in the Oglala Sioux Tribe, is that correct?

Mr. Trimble. That is correct.

Mr. Deloria. Would you say, then, that the long-term effect of this is to transfer control gradually, at least, over tribal resources and tribal government to members who may socially be assimilated or in that direction?

Mr. Trimble. I think that is obviously the situation predominating at Pine Ridge right now. I think we have use of Indian lands, for example, for grazing purposes, that is, about 30 percent of the land has been used by non-Indians and approximately 60 percent used by people who are a quarter or less degree of Indian blood.

Mr. Deloria. And yet it would require an amendment to the constitution, would it not, to set a specific blood quantum for future membership?

Mr. Trimble. Yes; it would.

Mr. Deloria. Do you think such a constitutional amendment, if proposed by the tribe, would be passed?

Mr. Trimble. I think, given the population breakdown on the basis of blood quantum, the tribe would probably have a difficult time voting in the one-quarter degree restriction. But they are interested in doing so. I mean the question is frequently coming up before the Council now. It has been referred to our attorneys who have drafted model ordinances or model—yes, I guess they would be ordinances, that deal with the blood quantum and Indian enrollment.

Mr. Deloria. I am sure you have seen the problems in this probably much more clearly than we have. Let me ask you what probably should be a hypothetical question, and that is: Supposing a tribe in similar circumstances, the Oglala Sioux Tribe or any other tribe, finding itself in circumstances such as that and finding itself, for those reasons, unable to amend its constitution to set a minimum blood quantum requirement in an attempt to return control of the reservation to more Indian-oriented people, would you advise this Commission and this task force in circumstances such as that, then, to recommend to Congress that Congress override tribal sovereignty, in that instance, and impose a blood quantum requirement on such a tribe?

Mr. TRIMBLE. I believe that could possibly be the only door open even for tribes having the provision that permits a referendum. We have already done some figuring here on this. We have done it in the context of land ownership, on the one hand, which has shown us that within a matter of just a few short years most of the individual land ownership on the reservation could be in the hands of tribal members with one-eighth degree or less Indian blood quantum.

I want to go on there. I believe along those same lines that in just another two generations, given our direction right now, it is a really difficult train to follow here because there is your more or less traditional Indian segment of the population that will stay that way by choice, but, on the other hand, the larger part of the population is of mixed blood and it is very quickly, very fast, going in the other direction, where the blood quantum is being diluted to the point a lot of these people won't be recognizable Indians either from a sociological standpoint or geological.

Mr. DELORIA. Would you happen to know the reasoning why the tribe adopted a constitution which had no minimum blood quantum requirement?

Mr. TRIMBLE. Given my familiarity with the people involved, I would have to say it simply wasn't made a matter of concern to them at the time this was adopted; therefore, they just have not taken the necessary measures.

Mr. DELORIA. Thank you. That is all I have.

Mr. TONASKET. Since you have been in office, it hasn't really been too long so maybe you have nothing to measure by, but since you have been in office has the Bureau of Indian Affairs or the superintendent assisted you in achieving your goals as you promised your people to bring the tribe back? Have they been an assist to you or a hindrance to you?

Mr. TRIMBLE. We haven't really had time to measure anything like that. I think they have been very gracious in showing their concern that we be able to cope with the very serious problems that we had there, but they have also seemed to be taking kind of a wait-and-see attitude, to see how tribal government develops there before they move.

For example, we thought we had a commitment from both the Commissioner and the Secretary of the Interior they would take immediate administrative action to remove certain disgruntled policemen that seemed to be causing a lot of trouble in the Bureau of Indian Affairs' force. We haven't seen anything happen there yet. That is just one example. They have been responsive to other moves that I have requested.

Mr. TONASKET. I have no more questions. I would like to say you made a very good presentation.

Mr. TRIMBLE. Thank you.

Commissioner DEER. Any more questions? Thank you.

We now have unscheduled witnesses. The first person we would like to call is Cary Leonard.

STATEMENT OF CARY LEONARD, CHAIRMAN, PHOENIX AREA INTER-TRIBAL SCHOOL BOARD

Mr. LEONARD. Madam Chairman, ladies and gentlemen, my name is Cary Leonard, chairman of the Phoenix Area Inter-Tribal School Board.

We are a school board established for the purposes of the off-reservation boarding schools of Sherman, Stewart, Inter-Mountain, and Phoenix Indian School.

How this relates to the structure of your interest today is that we are finding that the boarding school situation is something likened to a structure without a structure. Long after there is a major event that occurs, we find an aftershock.

We have been preparing recommendations for its effect on the Bureau structure. We are preparing guidelines for the effective running of boarding schools in justification to the congressional and Indian people on why we need boarding schools. I will introduce many of the materials to the Commission, just to inform you as to what we are doing and relating this to the Congress.

Mr. GOETTING. Do you have a copy of anything there with you now?

Mr. LEONARD. There are a couple of boxes outside. Four more are going to Task Force No. 5.

Commissioner DEER. Thank you.

Gene Parker and Mary Jo Butterfield.

STATEMENTS OF EUGENE PARKER AND MARY JO BUTTERFIELD, MAKAH TRIBAL COUNCIL

Mr. PARKER. My name is Eugene Parker, chairman of the Makah Tribal Council, and this is Mary Jo Butterfield, our council person.

Thank you for this opportunity to present some of the work that we have or that Mary Jo has prepared. I believe all of you have a copy or have seen one of these. Since Mary Jo has prepared this, I will just turn this over to Mary Jo.

Ms. BUTTERFIELD. Thank you, Gene.

In regard to the format of it, I went according to Mr. Kickingbird's recommendation. We identified the responsibility of the Bureau from the handbook, and several of them, as a descriptive thing, saying that these are the responsibilities of the Portland Area Office or the Western Washington Agency Office. And the two that we would like to spend time responding to are fisheries, forestry, and the barriers that the Bureau of Indian Affairs has placed in front of us in regards to comprehensive forestry management and the implementation of the *Boldt* decision.

In reviewing the history of the Fisheries Department for the Makah Tribe, I found that in fact the Bureau of Indian Affairs in the past has provided for our tribes at no time any assistance. It states in there that the Bureau of Indian Affairs Fisheries Management and Outdoor Recreation Division is responsible for the study and research of needs connected with maintaining and developing Indian fisheries resources. Provides close liaison between Indian tribes, U.S. Fish and Wildlife Services, and State fish and game agencies. Advises and assists Indian communities in the development, use, and management of their fishery resources and of their outdoor recreation resources on the reservations.

At no time has the Bureau of Indian Affairs allowed us the courtesy of these services on the Makah Reservation.

I am sure those of you that have been aware of the *Boldt* decision have been aware of the great controversies it has created, the dilemma it has created in regards to law and order on the reservation, the non-Indians who believe that we do not deserve 50 percent of the catch.

In the structure of the Bureau of Indian Affairs one of the things that we find is that—there is a map in here somewhere where Neah Bay is located. I think it is in Forestry in the second section—we are on the farthest northwest tip of the United States. We are 75 miles from the nearest town of any population, which is 16,200, I believe, right now. The procedures that we have to go through in order to get any type of activity out of the Bureau of Indian Affairs is to go from Neah Bay to the Portland satellite office, to the Everett office, or to the Hoquiam office, and then on to Portland to the area office.

The procedure is time-consuming, it is expensive for the tribe, and 90 percent of the time we do not have any services delivered or response from the request that we have made.

Mr. TONASKET. Where is the Portland satellite office?

Ms. BUTTERFIELD. No, the satellite office for the Everett Agency Office.

Mr. TONASKET. Where is that?

Ms. BUTTERFIELD. In Port Angeles.

Mr. PARKER. The map is on page 8.

Mr. DELORIA. Do you have BIA personnel on the reservation?

Ms. BUTTERFIELD. We have forestry now, who is being transferred to the Everett Office.

Mr. DELORIA. Transferred off the reservation to Everett?

Ms. BUTTERFIELD. Right. And he is going there and they have not advertised. They have not given us any information on what type of services they will be providing for us in forestry. They have, in a sense, deleted the forestry technican position and the secretary's position, making the Forestry Department practically inoperable.

Mr. DELORIA. And that is the only position you have there, or do you have other staff people there on the reservation?

Ms. BUTTERFIELD. Other Bureau staff; roads.

Mr. DELORIA. You have no one working in fisheries management or development or anything like that?

Ms. BUTTERFIELD. Tribal employees only.

Mr. DELORIA. No Bureau people?

Ms. BUTTERFIELD. Boldt money. But the forestry people that are assigned to provide services for the Makah Reservation are, I believe the last count I requested was 33 in the Portland area, in the Hoquiam office. There is no way possible, unless you blast them out with dynamite, that you are going to get a forester from the Hoquiam office up to Neah Bay for any type of services. They just don't come, and when they do, they don't do anything.

Mr. TONASKET. Ask them for some surplus dynamite.

Ms. **Butterfield.** No, the services there are very limited, and to come to the Makah Reservation is just out of the question for the agency—the satellite people. The Portland area office announces they have no travel for anybody to go any place. That is what they told us.

As far as Fisheries go, the *Boldt* decision money comes from the Bureau of Indian Affairs. I wasn't sure in the band analysis, what the band analysis was worth, where the money was coming from, if it was again in exchange for other services. They didn't make that clear to me.

The structure of the Bureau of Indian Affairs is completely inadequate for the Makah Reservation. Sometimes when we have a timber sale, the procedures that we go through are not in line, at any time there is no organization to it. Sometimes we will have to go through Port Angeles, sometimes we go through Hoquiam, sometimes we go through Everett, and sometimes we go through all three of them before we get to the Portland area office. Then it will generally sit in the Portland Area Office and wait for awhile.

Mr. **Tonasket.** Where is the decision made on where it goes, Port Angeles or Hoquiam?

Ms. **Butterfield.** Nobody, even the forester, is ever sure about that. One time the Hoquiam office will call up and he will say "You have to go through the Port Angeles Office." then you call the superintendent and the superintendent says, "All forestry-related concerns will go through the Hoquiam office." and then Hoquiam will say, "You've got to call the superintendent first," and it's a procedure that has caused our forester to ask for a transfer.

Mr. **Deloria.** I think most of us are not familiar, these other offices you are talking about, are these subagencies, or agencies?

Ms. **Butterfield.** The Hoquiam office is a satellite office.

Mr. **Parker.** It is a subagency of western Washington. Part of it is roads, but most of it is forestry. They do have some educational programs there, too.

For example, sometimes we put certain timber out for bid and we make a timber sale. This is drawn up by the forester at Neah Bay. Then it is forwarded to Hoquiam, and at Hoquiam it appears to me that whenever Hoquiam feels that they can approve it, then it is sent to possibly Portland. But in some cases on one desk, I would say, for instance, there is something wrong with the prospectus and it is stopped. One person has that authority to stop a complete sale. In one situation it cost us quite an amount—something like $80,000.

Mr. **Deloria.** On what basis was it stopped?

Mr. **Parker.** I can't cite the example. I can't put my finger right on it at this particular time, but we have it recorded.

Mr. **Deloria.** Will you submit it if you have it?

Ms. **Butterfied.** It is attachment "B" in the forestry section on page 8, about the middle of the third paragraph. We submitted the attachment for information to read and these are correspondence and statements that have been made by the forester and by the people that are working in the tribal center right now. It is right behind the map.

Mr. **Parker.** Right down in the middle of the page, on page 8, attachment "B" under "Forestry", it says: "At times, this has cost—" this is referring to what we have been talking about. It says: "The phrase 'out of sight out of mind' could not apply more appropriately to the attitude between Hoquiam and Neah Bay. At times, this has cost the Makah Tribe lost timber revenue from timber sales offerings going without bids. The most dramatic example of this inefficient and illogical organizational arrangement occurred with the Waatch Peak Logging Unit. The sale was offered with features in the contract that were not stated in the timber sales prospectus and advertisement. Crown Zellerbach, the successful bidder, refused to sign the contract after reading the unknown features and rightly so."

Actually, it really isn't organized all that well because there is a breakdown from one office to the other. And if you want to take it a little bit further, that any one of those foresters in Hoquaim, the Portland area office, and Neah Bay, they can start sending this rate down from one office back down the line and just keep going round and round and round, and there is absolutely no formula or procedures that we could actually follow to get some of those timber sales off the ground.

I think a good example of that was in 1952 they set up a small timber sale. It isn't recorded in here. This was called a green sale. In 1952 and in 1973—in 1973 that still wasn't off the ground yet, a small timber sale, individual timber sale. I told the person in the Portland Office, I can't remember his name right now, I cared less, but I called his office and told him:

> If you can't get this off the ground and get it advertised for this many years you have been working on it, then you're not the man for the office. And I said, I'll see to that, that he is removed one way or another.

In fact, at the time the Commissioner encouraged us to look at the contract. I said, "You're the first job I'll contract." And within 2 weeks I think it was out for bids.

Mr. TONASKET. Could you give us an estimate, like we have asked that other tribe before that had troubles, about how much you estimate that your tribe has lost because of mismanagement or confused management, whatever it is? Would it be possible?

Mr. PARKER. "Confused" management is the proper word, I think. Yes, I think we can probably. You said send it to you.

Mr. TONASKET. Would you do that?

Mr. PARKER. Sure would.

To take this forestry a little bit further, there is also that 10 percent fee we are always concerned about.

One of the things that we got interested in, when that 10 percent is paid or the Bureau withholds, then we know that goes into savings. I think it collects somewhere in the neighborhood of about 4 to 5 percent. We inquired about that and we could get no response about what happens to that 5 percent money that it draws.

Mr. DELORIA. Are you getting a fair price for the timber, that you know of?

Mr. PARKER. Yes; we are.

Mr. DELORIA. You are not having that problem?

Mr. PARKER. No.

Mr. DELORIA. Is your timber being managed according to practices, sustained yield or whatever, that you are satisfied with?

Mr. PARKER. Sustained yield, yes. I think in here, Mary Jo, there is a management marketing timber survey that was done several years ago.

Ms. BUTTERFIELD. There will be another one that will be sent down to you. They didn't get copies out to me in time to put this together. It will be attached and sent in later. It is the most recent one; it was in 1972.

Presently one of our problems is that the forester that we have now is leaving May 24, and the Bureau has not approached us or informed us: (1) That he is leaving; and, (2) who is going to be his replacement, and what type of activity is going to happen on the Makah Reservation in forestry.

Mr. TONASKET. Can I go back to the 10 percent? Do you get that back?

Mr. PARKER. Yes; we do.

Mr. TONASKET. For forestry management?

Mr. PARKER. Yes, after several years of really working at this, Mel, we finally were able to get that 10 percent back, but we lose our 5 percent that is collected on it when it goes into savings. In fact, at one time we threatened to sue someone because of this, because no one would tell us what happens to that 5 percent.

Commissioner DEER. Would you continue?

Ms. BUTTERFIELD. In regard to the fisheries, what I did was separate these and make recommendations. The recommendations—the Makah Tribal Council asks the American Indian Policy Review Commission to please carefully review the following recommendations and to assist us in informing the Bureau of Indian Affairs of the following:

Request the Bureau of Indian Affairs to assign a special solicitor in the Portland area office to be responsive and responsible to the *Boldt* decision tribes in the State of Washington. The tribes providing all of the input and supported by the Bureau of Indian Affairs.

Report on all meetings and conference with other outside agencies and equitable efforts made with the tribes.

The Bureau of Indian Affairs be the Makah Tribe's advocate in asserting that there needs to be a defined position and responsibility of the Department of the Interior and the State of Washington.

For further comment there I send attachments for you to review in regard to that recommendation.

These recommendations came from our Fisheries Committee, our Fisheries' director of staff of the Northwest Indian Fish Commission, and that is what we would like to have in regard to the fisheries.

In regard to the forestry, the recommendations for a comprehensive forestry management.

1. Every relating forestry matter and activity deal directly with Portland area office for processing, or Washington, D.C.

2. Divorce the Hoquiam office on all the relationships in the forestry management program.

3. Locate all management responsibilities in Neah Bay, that is budgets, authority to make decisions development, management practices, et cetera.

4. Request all reports from Portland area office on decisions made after meetings that have been requested by the Makah Tribal Council.

There were previously some meetings that had been held with the Makah Tribe in the Portland area office and we requested reports from those, and one was a GAO report of 1974, it was a task force meeting at Hoquiam, and we have previously requested reports from that meeting, and the Bureau of Indian Affairs in the Portland area office has not replied to that. There is no communication between the Portland area office in regards to projections, involvement, or anything with the Makah Tribe and the Portland area.

The two that we have responded to. will be the ones, and the rest of the report is for your information. The index indicates that we have responded to: Fisheries, forestry, housing, realty, roads, credit, education, employment assistance: and the band analysis.

In case you get to the back, the band analysis was absolutely and completely ridiculous and so unworkable I could only make a recommendation, which I would like to read.

Attached you will find a copy of the instructions that go along with the Bureau of Indian Affairs band analysis.

It is the recommendation of the Makah Tribal Council that recommendations come from the Policy Review Commission that will:

1. Develop and implement a procedure of budgeting for the tribes that is meaningful, effective, productive, and relating to needs on reservations as identified by the tribes.

2. Assist the tribes in making the Bureau of Indian Affairs aware that we need to be involved in decisionmaking areas as it relates to budgeting and that we have the abilities and are more aware of actual needs.

Commissioner DEER. Questions?

Commissioner BORBRIDGE. Just a question and a comment, Madam Chairman. With respect to the *Boldt* decision, I think in here there is an indication that there was not very long in forthcoming an expression of opposition by the Secretary of the Interior, and that a little while later Kent Frizzell issued an opinion which sustained a means, I think, of circumventing the *Boldt* decision so that in effect the Indian tribes might not be able to benefit from that. Is that essentially correct?

Ms. BUTTERFIELD. From the testimony submitted by the Fisheries Department.

Mr. BORBRIDGE. I believe it would be helpful if we had a copy. I don't think there is any reference to the specific written comments by the Secretary, but there is reference to an opinion by Mr. Frizzell that manages to sustain the Secretary in whatever he may wish to do.

Ms. BUTTERFIELD. That letter also is in another package. We have to have that copied and it will be available for you tomorrow, before you leave.

Commissioner DEER. Thank you very much for a comprehensive report.

Mr. Floyd Correa and Don Montoya of Laguna Pueblo.

STATEMENTS OF FLOYD CORREA AND DON MONTOYA, PUEBLO OF LAGUNA

Mr. MONTOYA. Madam Chairman and members of the Commission, my name is Don Montoya, and I am with the Laguna Tribal Council. Mr. Floyd Correa and I are here today to present a prepared statement for our tribe.

I think in the interest of time, maybe we can just read from it and then if there are any questions I think we will be prepared to answer.

Mr. Correa. My name is Floyd Correa, I am the business manager for the agency. I appreciate the opportunity of expressing the views of the Pueblo of Laguna regarding the Bureau of Indian Affairs.

There are several issues which present great concern to our pueblo. One of the major problems results from inadequate funding, as expressed by other tribes at this hearing, for tribes like ourselves who are under a multitribal agency of the BIA. In our situation there are 10 pueblos including my pueblo who are under the servicing jurisdiction of the 10 southern pueblos agency of the BIA. Fiscal year funds must be shared among ourselves. However, the funds are allocated to the various branches within the agency to cover administrative costs. In addition some of these funds allocated to the branches are then used for contract purposes or for specific projects earmarked for a particular pueblo. Very few if any large projects can be undertaken for 25 percent of the pueblos within this agency for any year. It has been our experience that each one of the pueblos has suffered major setbacks due to inability to get certain projects funded or contracted.

As you may be aware, the BIA uses a budget planning process called band analysis. The intent of the BIA is to obtain a listing of needs by line item as specified by each tribe. These needs are to be identified according to priorities within the confines of the previous fiscal year's budget base. These projects are never specifically identified on the band analysis document but are categorized generally into broad terms such as irrigation, education, et cetera. The need figure then is further broken into low, medium, and high projection figures to anticipate cuts or increases by Congress during Interior appropriation hearings.

This information must be prepared and submitted to the agency within a 1-week time frame. Our actual experience has been that generally only 3 days are actually available to gather this data to meet the BIA's submission deadline.

Upon submission of these documents by all the pueblos, a meeting is held at the agency between the 10 pueblo governors and agency officials. The data is reviewed and analyzed to determine what priority needs were indicated by each pueblo. Based on a vote by the governors in attendance at the meeting, a joint set of priorities are voted on to represent the priorities for the agency. A copy of the land analysis and voting results for fiscal year 1976 is attached with this statement.

This procedure has hampered each tribe's effort in having its individual needs met since their priorities are not necessarily the same as the others.

To cite a specific example, the irrigation needs of pueblos located adjacent to the Rio Grande have generally had their needs met over the past years. As a result, their priorities are other than irrigation. In the case of Laguna the demand for irrigation is of high priority with the major projects initially being reservoir construction and thereafter water distribution systems for agricultural purposes. Because this category has constantly been given low priority by the 10 southern pueblos, as a whole, very little money is available to undertake major projects such as reservoir construction, much less irrigation canal lining. In fiscal year 1975 approximately $150,000 was available to the Albuquerque area for irrigation construction projects; only 20 to 30 percent of that amount was available to the agency for the

10 tribes. As a result, Laguna's attempts for obtaining any construction funds from BIA has been fruitless. In addition, since funds may be inadequate for a particular portion of the agency's operation which a pueblo may want to contract, Public Law 93–638 contracting opportunities are minimal or nonexistent. Self-determination is truly a philosophical exercise in this situation.

There are several possible alternatives available. First, separate agencies could be created for those pueblos who meet the criteria for establishment of such agencies.

But the criteria of the Bureau is very vague at this point. To cite one example, the Ramah agency, which handles the affairs of less than a thousand people, has been given agency status. We have approached the Bureau in this regard and have not really had any positive answers in that regard. However, this is one alternative. In addition, BIA funds must be available to pursue this approach.

Second, more funds could be appropriated to multitribal agencies with the funds being a factor of each pueblo's priority needs. Further still, a separate band analysis document should be submitted for each pueblo as was strongly requested by Laguna for the fiscal year 1977 band. A copy of that band analysis document for the Pueblo Laguna is attached.

Another activity would be to create a tracking document indicating the tribe, its needs, the amount actually allocated per project, the amount expended for that fiscal year and the percentage of completion of a particular project. The uncompleted portion can then easily be reprogramed into the next band analysis request. This would avoid waste of Federal funds by the mere fact that unfinished projects will not be left unaddressed.

I have only cited one case to some extent; however, there are other existing funding problems which must be closely analyzed for those tribes under multitribal agencies. Our next band analysis review is to be held on May 13, 1976, for fiscal year 1978 funding requests. A copy of those base figures is attached for your review. We got a copy of the band analysis Friday so we had about 1 week to prepare for that.

On behalf of the Pueblo of Laguna I respectfully request that your Commission take note of these problems and research methods for solving them.

There are other problems I would like to mention. Pueblo Laguna is extremely fortunate to have had the opportunity to extract uranium from its reservation for the past 25 years. We made a request recently to the Commissioner, under CFR 25 there is a provision for trust responsibility, and we wondered whether we could contract a certain portion for technical assistance purposes. What we are afraid of is that over the past years the private company may have not been giving us the actual data. The Bureau of Indian Affairs says it is a responsibility of USGS and the Bureau of Mines to furnish us that data or keep the mining company in line and make sure the reports come in. But we do not have an advocate, nor do we have, I think, within the Bureau the expertise to analyze the mineral data that has been given by the company, and this is our fear.

We would like to take the contract moneys and hire our own experts. who will be available to the council and the governor, to recommend and answer any technical problems or situations that the tribe may have. And with the recent increase in price for uranium, I think the tribes should have taken action beforehand, but now I think it is a very pressing need at this point.

We haven't had any response from the Bureau. We have had an individual from the trust services branch of the central office talk to us about this, but we haven't got any positive response on it. And if you would research that possibility we would really appreciate that.

I am open for questions.

Mr. DELORIA. The Bureau of Indian Affairs told the tribe that it is the responsibility of the U.S. Geologic Survey and the Bureau of Mines to enforce the provisions of your mining lease?

Mr. CORREA. Yes, sir.

Mr. DELORIA. Did they say that in writing?

Mr. CORREA. No. Again, we do have the names of the individuals that were in attendance at that meeting and I think we have enough witnesses to justify that statement.

Mr. DELORIA. Could you give us some specifics on that, please, submit it later?

Mr. CORREA. Sure.

Mr. DELORIA. There are frequent references in your statement to attachments which are not attached to our copies. Are the attachments available some place?

Mr. GOETTING. We have two sets. They didn't have enough. We do have them in the file.

There is one thing you mentioned there, Floyd, about the criteria of establishing an agency. You referred to one with a population of a thousand. Is population pretty much the criteria, are there any other elements involved?

Mr. CORREA. Right, the availability of funds. If we were to set up an agency of our own, we would have to show that it is available, or funds are available from the southern Pueblo agencies. But the Ramah agency, to cite one example, set up an agency without going through that procedure, and we are at the point now where we have got our data together and we are actually pursuing that objective. But it is pretty much showing that there would be funds available and it would not hurt the operations of the agency.

Mr. GOETTING. Would you consider that a separate agency or a subagency to the one that exists there now?

Mr. CORREA. Separate agency.

Mr. DELORIA. What would be the advantage to your tribe of having your own agency? Are you looking at increased staff available strictly to your tribe? Are you looking for decisionmaking power right on the reservation, or what is it you have in mind?

Mr. MONTOYA. Let me try to answer that one, Sam. As Floyd mentioned, on our reservation we are looking toward types of development and rapidly getting close to where we feel over the years we have built up some expertise. Largely our request is not for additional staffing, but in many instances, that agency, either southern pueblos or the area office, does not have the capability, and we feel that that agency, if established out there, would be geared more to our needs and I think it would help us in many ways. Right now they are more traditional than we are.

Mr. Correa. To go just a little further on that, from a multitribal standpoint I think I would like to think of ourselves as being a little more progressive. We are the largest pueblo in New Mexico, with a substantial economic base. We just went through a reorganization and have hired some professional people within our tribal government. We feel that, as I mentioned in the irrigation example, there are other priorities which we have, which are entirely different from the other pueblos, and during the general meeting that we have with the governors, we are generally outvoted. By the mere fact that we may have gained that objective a few years past and we are looking at another objective, but when the band analysis document goes from the agency through the area, the tribe loses its identity there. It is just a document and it goes forward and we requested, in the 1976 band, that our document be included. We tracked it from the agency to the area and back to the central office, but that is as far as it got. It never was submitted to the congressional hearings.

What I am recommending is that there would be a tracking document and there is data available from the computer center, but the turn-around at the computer center is extremely bad. But all the data is there, and it would relieve a lot of the headaches that tribes go through in that situation.

In other words, if we had an agency out there, our needs would be met. We could identify what we want, and work on a 1-to-1 basis with one agency and address a lot of the priorities that we have.

Mr. Deloria. Do you have plans for your funding needs projected down a certain limit of time—5 years or 10 years—for development and for tribal development purposes?

Mr. Montoya. Yes; we have.

Mr. Correa. Yes; we do. We have a plan which we update yearly for the Council. I think it has worked extremely well in that our dependence isn't entirely on the BIA. We are going through primarily an integrated funding approach and it is being extremely helpful to us. However, I don't think the Bureau is doing its part to assist our tribes in development.

Mr. Tonasket. I would like to ask you, from my experiences up in the Northwest where the Bureau kind of works one tribe against another when it comes to money: Do you find that in your situation, where you have a number of pueblos under one agency?

Mr. Correa. Very much so. It is almost a dog-eat-dog type thing. It really causes a lot of problems with the pueblos, and it is the one who hollers the loudest that may get some projects funded. There isn't enough money available for 638 contracting. So it just creates more dissension among the pueblos. Rather than working as a unit, it is a factor which is causing some division among the pueblos.

Mr. Tonasket. I know it is kind of a touchy question to ask, I know the thing has been said in other parts of the country, but have your tribes, when they kind of work one tribe against the other, have they ever told you if you are good little Indians you will get some money; if you don't play ball with us, then you might not get any money?

Mr. Correa. Not really, because I think we have followed pretty much our own method of accomplishing whatever we are going after, whether it is with the Bureau—we try to approach another agency to get the same thing funded if we are not successful with the Bureau.

Mr. TONASKET. Have there been times when you have had to go back to Washington to try to get funding rather than going through your band system at home?

Mr. CORREA. Constantly.

Mr. DELORIA. Do you find the area office serves a useful function in delivery of BIA services?

Mr. CORREA. Not at this point. We have been without an area director for a little over 2 years and we still don't have one.

Mr. TONASKET. Has it had any drastic effect on you?

Mr. CORREA. I think it has. We can't get any definite answers from the acting area director. I would feel that it would be better put to use if they set up more agencies among the multitribal agency situation and it would cut out at least one step in the redtape procedure.

I was intrigued by the idea that Mr. Savilla put forward. I couldn't really comment on that at this point, but I think we could go back and research that idea with our Council.

Commissioner DEER. Any more questions. We thank you very much, gentlemen.

We have three more witnesses who are waiting. John Fredericks.

STATEMENT OF JOHN FREDERICKS, PRESIDENT, INDIAN CATTLEMEN'S ASSOCIATION

Mr. FREDERICKS. Madam Chairman, and members of the Policy Review Commission, my name is John Fredericks. I am the president of the Indian Cattlemen's Association and we represent the working people living out in the various Indian lands. We represent the working segment of the Indian population throughout the various Indian lands who make our living off of the resources these lands provide to us.

I am here today to provide testimony to request that our grassroots people involved in the production of agriculture be given a greater opportunity to plan programs and have more voice in our destiny as we work in providing a means of livelihood for our families and for the betterment of our overall communities.

We have developed a program, a long-range program, that has within its planning structure a means of providing, or a means of utilizing all the natural resources throughout our Indian lands in this country. At the same time, developing one of the established business ventures that has always been a viable economic business throughout our Indian lands—that of production of "red meat," taking it from the cow-calf clear through to the consuming public. This process will include pasturing mother cows, pasturing yearlings on supplemental feed, the development of feed lots, construction and development of slaughter houses and the development of a mass transportation system which would involve primarily trucking. The trucking segment would provide the kind of trucks necessary to carry cattle to the feed lots, from the feed lots to the slaughter plants and we would have a segment of the trucking system available for taking cold carcass meat to retail outlets or to shipping points where we would load it onto ships for marketing purposes.

We realize that this project will take a number of years to accomplish. We have set our goal at 15 years to have this in full operation.

I am here today to request the Commission to consider our planning and needs in any future alinement of the BIA. I would like to make the following suggestions:

1. That we have a central office set up with a direct communication to the various reservation levels;

2. That the Bureau staff on these various reservation levels be a skeleton staff to set up to provide direction and technical assistance in helping our tribes and cattlemen in moving our program toward our final, planned accomplishments.

At the present time, due to the present legislation and due to the tremendous amount of low qualified personnel on our reservations, we are plagued with these people making rather incompetent decisions due to the country's efforts in attempting to reduce unemployment and thereby prevents the kind of progress we would like to see on the reservations today. The remainder of the staff working on the various reservations would then be tribal employees who would be planning and taking an active part in their own social-economic destinies.

I also think that this skeleton Bureau personnel on the reservation should be given the right to work with the Indian tribes' employment force in sitting down and reviewing the CFR 25 to upgrade this code that is used to govern our lives. This would provide us with the kind of regulations necessary to promote our cause and provide us with the people that are involved in the planning in the grassroots level, working with the Bureau people set up at that particular reservation to plan the overall structure that will enhance and promote economic and industrial development, thereby creating a lifestyle plan and developed by the Indians themselves.

At the present time, we are utilizing a lot of government grants from the various agencies and providing an overflow of job opportunities on our reservations which are not well planned and rather makeshifted as I mentioned earlier. We are of the impression that these funds should be utilized in three prime areas:

1. As we definitely feel that moneys should be directed toward the improvement of our natural resources on the various reservations, more specifically in the area of irrigation, or water use through irrigation, cross-fencing, grass seeding, brush and shrubbery eradication, water development in the forms of dams and springs, deep wells, and various other conservation practices to prevent the erosion of our natural resources.

Moneys used for necessary kinds of improvements will have developed our natural resources creating greater productivity and the value of the money will never end.

2. We look forward to moneys being available for self-development of one of our prime resources, that of the production of meat. These resources would include feed lots, slaughter plants, and sophisticated transportation systems. Many dollars have been spent in the development of recreation systems and tourism of various other business ventures that were planned by other than the local Indians themselves. We feel, if given the opportunity to develop and progress in the agricultural field that our reservation lands are highly conducive to these activities. We will then be solving many of the problems that exist on our reservations today because we will be promoting our self-made business through the use of our resources that best serve

this business, looking at it both from a human standpoint and productionwise for the betterment of our overall Indian population.

3. The third area that we think should receive special attention is agricultural training. We have been working in the past with other agricultural associations and our various universities' extension services and other areas, and we would hope that any new direction would include a fair sum of moneys made available for training in the various agricultural fields, including farming, ranching, and the other various agribusiness that I mentioned earlier in this testimony.

We firmly believe that if we are provided with these kinds of resources and the necessary changes that we mentioned earlier in this testimony that it will give us Indian people a chance to change our own socio-economic conditions to a kind of lifestyle that we will have planned and given an opportunity to create and, in so doing, we definitely feel that we will set up the kind of business economy and the kind of improvement and the kind of community that we have missed for so long so that we might live in harmony and peace as we used to in days gone by.

In summary, I would like to say I highly favor a sectional position for Indian affairs. I definitely would like to see the Bureau staff toned down so that we get a smaller staff on a local level, that the tribes are able to do their own planning and set up a staff that is capable of working with that Bureau staff in setting up their planning, and that they can make those decisions right from the reservation level.

Thank you.

Commissioner DEER. Questions?

Commissioner WHITECROW. Madam Chairman, I have a comment I would like to make.

Mr. Fredericks. I am very happy to see you come along with a recommendation and testimony such as you have made here.

I might also mention the fact that you and I have the same interests. We also have a Cattlemen's Association in the State of Oklahoma, of which I serve as president. Unfortunately, you and I have never met. I know your brothers.

Mr. FREDERICKS. I have heard your name a lot. I feel like I know you.

Commissioner WHITECROW. We will take this into account and I am sure we are going to have a good deal of interest created. We would certainly like to encourage you, if you would, to also make a special effort to visit with Task Force No. 7, reservation development and resource protection. I think it has a great bearing upon this area of interest which we have expressed here.

Mr. GOETTING. I would like to ask how wide is the Cattlemen's Association as of now? What coverage do you have tribewise across the country?

Mr. FREDERICKS. I am not in a position to answer that totally, Ray. We have been formed for 2 years now. In the formation meeting here in Denver, 2 years ago this month, we had 40 tribes from 11 States participate in the formation meeting. At the end of the first year we had somewhere between 700 and 800 members. This year we have kind of held up on our membership because we wanted to develop a sophisticated method of providing memberships that would keep the recordkeeping in a central place, so that those people that were paying membership dues would be able to receive the services that we might render as an association.

Mr. GOETTING. Is your membership on a tribal basis or an individual basis, or do you have a combination?

Mr. FREDERICKS. We have six classes of membership. We feel that we have opened the door to all the people that may be interested in our association. We have individual memberships, which is a $10 membership fee up to 100 heads, and anything over 100 heads, those members pay 10 cents a head additional. We feel that those people who are bigger operators can afford to pay more for the services we might render.

Then we have an individual associate: That is some person who is just interested, has no voting power, that is interested in our association.

Then we have a business affiliate: That is feed companies, various agribusiness establishments that are interested in our business or our production, or in selling to us in some form.

Then we have affiliate memberships for all cattle associations like the American National Cattlemen's Association, Hereford Association, Angus Association, all the associations involved in our business.

Then we have an affiliate membership for a tribal affiliate membership. And that is available to all the tribes who are interested in being a part of our organization.

The last membership involves the Indian associations, and we have it set up on a scale from 1 to 25, 25 to 50, and 50 to 100.

Commissioner DEER. Is the Bureau giving you any technical assistance or financial assistance?

Mr. FREDERICKS. Yes; the Bureau has. The Bureau is administering a grant for us out of the Muskogee office and actually provided $50,000 of the grant. The other $50,000 was provided by the Economic Development Administration.

Also, the Bureau has given us, in local regions, smaller grants to develop certain things. For example, they provided about $20,000 for a committee within region 3 in North Dakota, South Dakota, and Montana. We were able, through the use of those resources, to develop a title 9 project with the EDA regional office here, with EDA people in Washington. American International Bank involved $300 million, and since then $3,600,000 for a lending program to assist some of our tribes who were hit pretty hard by severe spring storms. This money, of course, is a grant. We issued it out in low interest loans, and the money, when it is paid back in, will be held in a special account for the Indian cattlemen. We hope to use that money as seed money in developing a more sophisticated lending program, because we realize that this is the first thing that we have to look at in developing the kinds of business ventures that we hope to develop.

Mr. DELORIA. Mr. Fredericks, does the Bureau of Indian Affairs make it easy to cooperate with Indian cattlemen who are interested in taking land out of lease and putting it under Indian use?

Mr. FREDERICKS. Well, I've got to speak quite frankly about this. All through the years, and I have been in the cattle business for the last 20 years, I guess, and all through the years the Bureau has, it seems to me, in my relationship with them, made it rather complicated for Indian cattlemen to progress.

I will cite two examples. On my own reservation on Fort Berthold, the Indian cattlemen got together with the tribes and set a rate that we felt was fair and equitable to the cattlemen and to the tribes, to the tribal members who had land, and the Bureau just, you know, didn't go along with it. The tribe can only set the price on their tribal land, and then the Bureau, recommends on a lot of land. The Bureau has the final say on a lot of land.

In this case, they sort of had the final say overall. They rejected the resolution the tribe sent in. So it was raised considerably.

The other example I would like to cite is the one in northern Cheyenne where some Bureau appraiser appraised their land at $80 an animal unit, and that was just a little over 1 year ago, when we were having a hell of a time getting $60 a head for calves. Of course, the northern Cheyenne cattlemen were quite perturbed about it. By the same token they had worked out an equitable price, they felt, with their tribal council. The two groups got together and worked it out, and the Bureau just caused them a lot of trips to Washington. They finally had to bargain with them to get a price that they felt was fair. Eighty dollars a head, you know, there ain't nobody can make it at that figure.

Mr. DELORIA. So it appears one way to get the Bureau of Indian Affairs to raise the price to the land owner of the lease is for an Indian cattleman to try to lease the land?

Mr. FREDERICKS. Right, exactly.

Mr. DELORIA. Do your members have difficulty getting assistance from other agencies such as the Farmers Home Administration?

Mr. FREDERICKS. Since our organization has been created, we have made a lot of inroads in the Agriculture Department. In working up this disaster loan program we were working with the Farmers Home Administration. They opened the door to the Farm Credit Administration. The Farm Credit Administration, upon our meeting with them and request, have set up a committee to study Indian credit. They have completed that study. They are in the process of putting it together. We have asked them to set up a system that they felt would serve our needs so that we could review it and make any changes, take it to the tribes and go to the Congress for legislation to fund that credit program.

Mr. DELORIA. Do your members report problems in dealing with the county committees that the Farmers Home Administration uses to administer some of its programs?

Mr. FREDERICKS. We found that the biggest problem was communication. I sort of personally felt that the county supervisors were just not getting this out to the Indian people. We, however, challenged them on it, and we did get more Indians getting involved in loans. We also got certain counties within North Dakota and South Dakota qualified as a disaster area. You don't have to stand in line, the funds are immediately available to you up to $250,000. And there are several segments to it, including buying land and all your losses, that sort of stuff. So it is really quite a program. They sort of held us from getting under this until we were able to put a little pressure on them through our meetings.

Mr. GOETTING. John, you say there is a study being made you are trying to wind up now? Is there a possibility our Commission could have a copy of that? Will it be available fairly soon?

Mr. FREDERICKS. Yes; I am in hopes it will be available just any time now. We would be happy to give the Commission a copy of it.

Mr. GOETTING. Another question I would like to ask in regard to your leases, and so on. Do you have any problems with BLM or lease lands, other than tribal land or private land? How about negotiations with public domain for grazing purposes?

Mr. FREDERICKS. I shouldn't say there is not any on the reservations, but I am not familiar with any of those kind of leases, mostly Bureau leases.

Commissioner DIAL. Do you have any Indians working in any of the county ASC offices?

Mr. FREDERICKS. Yes; we do in some cases. We found, however, that in one case they sort of used their Indian personnel employed there. He happened to be the chairman of the Disaster Committee, and their county wasn't approved for the disaster. I looked at the chairman's signature and it happened to be one of our members. There wasn't too much I could say about that.

Commissioner DIAL. Are you electing any county committeemen in your elections to the ASC Committee?

Mr. FREDERICKS. One of the things that we have attempted to—but let me say this, it is pretty hard to get an Indian on there because of the white area. Another thing is, we are going to the Department of Agriculture and attempting to get our disaster committee, because only those people on the reservation really know what the conditions are.

The other thing is, as far as FHA is concerned, there are two reservations in North Dakota and South Dakota, that I am familiar with, that do have offices on the reservation. In these cases, most of their people are tribal members. They are able to review and make more adequate selections, and we hope to get more county offices located right on the reservations, better service.

Mr. DELORIA. I understand that the Bureau of Indian Affairs, by contract, assists in supporting State extension services through State universities: Is that correct?

Mr. FREDERICKS. Yes.

Mr. DELORIA. Do you find those to be adequate services to Indian agriculturists?

Mr. FREDERICKS. No, I think that that service—I mentioned it some in my paper here—some of those people, the more dedicated people are good service, you know, to the Indian people, but the way it is set up, it is not. They are not tied in with us so we can plan and work together in the kind of unity it needs to really accomplish things.

We were working on an overall program to have the moneys—the moneys come out of the Department of Agriculture to the Bureau—and we were working on a program to get that money directly to the tribes. But somehow we got bested on that deal. But we are still thinking about it.

Mr. DELORIA. I understand at one time the Bureau of Indian Affairs and other funding agencies had established a guideline such that they would not assist any Indian person to go into the cattle business if he did not plan to have more than a certain number of head, because of the judgment of the Bureau that there is a certain limit for self-support. I understand it was 200 head or 250 head. Is that correct, do they still do that?

Mr. FREDERICKS. You mean they don't allow you to go in unless you have 200 head?

Mr. DELORIA. That is right.

Mr. FREDERICKS. No; I don't think that is totally true. There may have been an administrative decision to that effect, but I don't think it was enforced because the smaller operators have been allowed to get in. We, as an association, don't look down on those smaller operators. Some of them do have other jobs on the reservation, and between the two they make their living fairly well.

Mr. DELORIA. So you don't feel they are being denied equal opportunity at whatever assistance is available?

Mr. FREDERICKS. In providing allocations?

Mr. DELORIA. Allocations and loans and whatever other assistance might be available.

Mr. FREDERICKS. The problem I see over the past, the Bureau sort of took the bull by the horns and set up their own ideas in setting up numberwise. When they really set what you are talking about, Sam, they set it up at 100 head. This is what they based their loans on, their revolving loans that they controlled at that particular time. And, of course, as time went by a lot of our Indian people fell by the wayside because that was just not an economically feasible operation. Of course, at that time we didn't have an association. I might say in earlier years that certain cattlemen did attempt to form an association, and it was stopped by some of the Bureau personnel and strong politicians in the area. So I think now that we have got a national organization, we have come a long ways in a short time. It is something that we needed for a long time. I hope and I think with the kind of support we have that we will make a lot of progress. It is surprising to look at some of our reservations and learn that over half of it is being used by non-Indians. We hope to correct this in time to come.

Mr. DELORIA. Are there any effective cooperatives that you know of?

Mr. FREDERICKS. I don't know of any cooperatives as such. We have some very good large cattle associations that are tribal ventures. Some are totally tribal, some part tribal, some part livestock cattle operators, members of the tribe. I am sure some of you have heard of them. The Seminole Tribe in Florida, for example, runs about 16,000 head.

Part of that is tribal and part of it is individual members. They run the whole thing together, and have a real good working, viable cattle operation.

They have very good cattle associations in New Mexico which are well established and provide some of the outstanding Hereford cattle in the country—White Mountain, San Carlos, Wendell Chino's reservation.

Mr. DELORIA. Are grazing regulations enforced by the Bureau of Indian Affairs?

Mr. FREDERICKS. Grazing regulations are enforced, but when they are enforced they can interpret those regulations about the way they want to. There are enough of those obsolete regulations in there that they can read them any way they want to.

Commissioner Deer. Any more questions or comments?

Thank you very much. We wish you very well in your association.

Mr. Rod Means.

STATEMENTS OF ROD MEANS, INDIAN BUSINESSMEN'S ASSOCIATION OF SOUTH DAKOTA, AND NORTH DAKOTA BUSINESSMEN'S ASSOCIATION; VIOLET LeBEAU, SOUTH DAKOTA INDIAN BUSINESSMEN'S ASSOCIATION; AND FRANCIS DAVIS, NORTH DAKOTA INDIAN BUSINESSMEN'S ASSOCIATION

Mr. Means. Madam Chairman, members of the Commission, we want to thank you for giving us this time.

First, I want to introduce Violet LeBeau. She represents the Indian Businessmen's Association of South Dakota, and on my left here is Francis Davis from North Dakota. He is representing North Dakota Indian Businessmen's Association, and I am affiliated with both of them.

Listening to John makes us feel kind of small, but we are starting. We started a number of years ago to establish these Indian Businessmen's Associations.

Senator Abourezk would like to have us confine our remarks to the BIA structure. Well, in order to justify the reason why we would like to have these changes, it spills over into a number of different categories. One would be trust responsibility, the financing act, Buy Indian, Indian Self-Determination Act. Technical assistance, all of these different categories bring out the fact the reason why we would like to change the Bureau. Now, you want specific answers on this?

Mr. Deloria. Senator Abourezk isn't here now. Tell us what your problems are.

Mr. Means. Well, we got problems.

Mr. Deloria. If he comes back and catches us talking about what he doesn't want us to talk about, we will deal with it later.

Mr. Means. Fine. We have a position paper here we drew up right quick last night. We were uncertain of what you had on the agenda, and how we were going to get involved in this thing. We have been following this task force around for a number of days. We caught it in Aberdeen and we testified at that task force meeting. Now we caught up with you people again, and I understand this is the last testimony that you will be taking. Is that true?

Mr. Goetting. I don't think so at all. We have some more in Oklahoma but that is for Oklahomans. I don't know whether you want to follow us all the way down there.

Mr. Means. I would like to let Violet go ahead and carry the ball from here, unless there is anything you need to ask me.

Ms. LeBeau. I would like to read our position paper. This is for the North Dakota Indian Businessmen's Association and the South Dakota Indian Businessmen's Association. This is in regard to several economic development problems that we find among several Government agencies. The first one that we would like to talk about is the comment on the Bureau of Indian Affairs structure and Federal administration. This is to the American Indian Policy Review Commission Task Force No. 3, May 8–9, 1976.

The new Public Law 93–638 (Indian Self-Determination Act) which became effective January 4, 1975, created several major changes for Indian tribes and individual Indians.

A. The provision in the act was intended to provide maximum Indian participation in the Government and education of Indian people.

B. To provide for the full participation of Indian tribes in programs and services conducted by the Federal Government for Indians and to encourage the development of human resources of Indian people.

C. To establish a program of assistance to upgrade Indian education.

D. To support the right of Indian citizens to control their own educational activities and other programs.

Congress has recognized the obligation of the United States to assure full Indian participation in the direction and implementation of services to Indian communities and to be more responsive to the direct needs of Indian individuals and communities.

Toward this end Congress has committed itself through the establishment of the Indian Self-Determination Act. Congress has declared that this policy will permit a transition from governmental and bureaucratic domination to a new system whereby Indian people themselves will be involved in the conduct, administration and planning of its programs and services.

The long overdue policy has created massive changes and transitional problems for tribal government and individual Indians. The tribes and Indian communities are now seeking new approaches toward developing systems which will best serve their people. Public Law 93–639 has made provisions and opened the door for self-help and sufficiency.

Presently the Indian people are confronted and faced with what methods will be utilized to carry out this monstrous mandate. The tribal governments and people have operated the past several years under domination of the Bureau of Indian Affairs. Because of the paternalistic patterns and attitudes created by this agency, our Indian people have not had an opportunity to make their own decisions. Consequently, suddenly, tribal governments will be gearing up or streamlining their programs in order to catch up with years of progress and success. The question then remains as to how will this all become possible, and what methods will be utilized for restructuring Federal administration.

Although Public Law 93–638 gives opportunity for tribes to contract services, the law still permits the Bureau of Indian Affairs to retain the larger portion of administration and programing. The questionable items with reference to this area are: Will Public Law 93–638 create two major administrations? One at the area level and one at the local reservation area? And what percentage would this double administration cost out of the $25 million allocation?

We need to get the red tape eliminated from the Bureau of Indian Affairs and Department of the Interior by establishing a direct line of communication, more direct services on specific functions and problems involving Indian people and programs. The separation of the BIA from the Department of the Interior is one method that could be challenged and to work toward the creation of the Bureau of Indian Affairs as an independent legislative entity or agency.

Be it further recommended that the Bureau of Indian Affairs consolidate its programs into meaningful categorical areas, such as economic development, manpower/employment management and technical and communication service.

Presently the Indian Housing Department under BIA appears as a duplication of efforts because HUD and local housing authorities have jurisdiction over Indian housing programs. There are too many governmental agencies duplicating Indian programs and not sufficient direct services for Indians.

The third comment in regard to Bureau of Indian Affairs restructuring would be this: The area office program departments and personnel could be cut to a minimum whereby each department could have a technician or management specialist that would be assigned or available to deal directly with a tribe on an "as call" basis, thus avoiding duplication of area and local reservation staffing.

Contracting with private consultants and specialists in a specific program area will be another area to explore. Private enterprise or business never overloads administrative costs or staffing. The BIA has a reputation of excess personnel arrangements.

The BIA as it remains under the auspices of the Department of the Interior has created several major obstacles. One is the fact that it is not an independent agency, and direct services are not available; instead, Indian people have a double bureaucracy through the present system.

That is the position paper that we have on the Bureau of Indian Affairs. Are there any questions before I go into a couple of other programs and recommendations that we have?

Commissioner WHITECROW. I have a question I would like to ask you. How do you perceive the Bureau organization or reorganization, or whatever it might be, in being able to deliver a type of service to organizations such as yours?

Ms. LEBEAU. Presently, the South Dakota Indian Businessmen's Association is made up of various Indian businesses throughout the State of South Dakota, parts of North Dakota, and other areas. All of the people that are in business, Indian people the majority of them, I would say 90 percent of them, are on reservations, and the other percent reside in urban areas.

Now, one problem that we have in regard to those residing in an urban area, of course, is the fact that Public Law 93–638 does not reach these people. Although their services of contracting with the Federal Government, Public Health Service and the Bureau of Indian Affairs and other agencies, provide services to the residents and to the tribes, they still are not eligible for any type of assistance in the Self-Determination Act.

This is also another thing that hinders the operation of Indian businesses in urban areas. It is a fact that the Indian Finance Act does not reach the urban Indian. As you know, there is a clause in there that says only services will be provided to those that live on or near the reservation, and that phrase has not been clarified. So presently, those two programs, as such, are not available to urban Indians.

The people that have businesses on the reservation, of course, are eligible for the Indian Finance Act and other assistance. We feel that there is not sufficient technical and management services provided by the Bureau of Indian Affairs to assist individual Indian businesses or even tribal businesses. As a business association, we provide management and technical assistance to them from the very beginning of the program where a new business is going in to setting up business. We tell them where to go to find capital. We help them with finding insurances, and various other types of things. We assist them in finding matching loan programs, FHA, with Indian Finance Act, or whatever it might be.

In the State of South Dakota we have 157 Indian businesses that are registered in our directory, and these are the groups of people that we assist with management and technical assistance.

Getting back to your question about the part that the Bureau of Indian Affairs plays in this: The only avenue that we can direct our services to them or referral to them is the Indian Finance Act, just for those people that are on the reservation. The industrial development program in our area, at the Aberdeen area level, we do have a staff up there, but their travel is limited, and their staffing is limited, and this kind of thing, so the only communication or participation that they have with us is sitting in on our business workshops, our seminars, or this type of thing.

Commissioner WHITECROW. I am hearing every place I go about the problems that Indian people have in trying to deal with the Small Buisness Administration. I was wondering what you might think about providing—however this Bureau might be determined or reorganized after this thing is completed or whatever it might be—do you think it might warrant, say, creating a special office within the Bureau that would be an advocate for Indians, individuals and tribes, that would go with them and assist in negotiating loans through the various other Federal agencies? In other words, cross-reference or liaison-type work?

Ms. LEBEAU. Yes. I could see a thing of this nature is feasible. As we have it now in economic development and industrial development there are too many fragmented programs dealing with economic development. We have EDA, and we have the Indian Finance Act here, and there is the State program like the South Dakota Indian Business Development Organization, which is funded by the Office of Minority Business Enterprises. So we do have a number of Federal agencies that are supposedly supposed to be assisting Indian business development, but like I say, they are all fragmented and each one has a particular area to operate in. So the problem that the Indian businessman faces is how does the individual client know what agency is supposed to assist them, and with what services are they supposed to assist them. One is a loan program, one is a technical program, and one is, several other things. Then we are faced with the banking institutions that are left completely out of the financing institutions. So as a business association we can go to a private banking institution and visit with them about letters of credit or bonding. We do these things through the association, and these are all items which are not covered by any Federal program that is funded for economic development.

Commissioner Bruce. What about SBA?

Ms. LeBeau. I forgot about SBA. We do have some loans that are funded by Small Business Administration. There appears to be some problems in that area. I guess most of you are aware of some of the business problems that exist with Small Business Administration.

Mr. Means. The Small Business Administration—we have been dealing directly with the Denver area, especially on the bonding. We have some of our contractors funded through the SBA in the sense of where they go to the bank and get a guarantee for working a line of credit, so that they can meet their payment, their material and labor type thing. They are very cooperative, but they are limited to what they can actually do for us.

Touching a little bit on this bonding letter of credit: I am pretty teed off at the Bureau of Indian Affairs because we have had a terrible time getting bonded for our Indian people. That is one of the biggest stumbling blocks we have. So, therefore, we had sent resolutions to the Commissioner of Indian Affairs, the Indian Health Service, and HUD people, that we would like to have alternates in lieu of bonding. All the time this was in the Federal procurement regulations. They did not implement this. I found this out at the last task force meeting we were at in Aberdeen. These are the things that tee us off because we are working so hard to be self-sustaining people, trying to be business people, then the Bureau of Indian Affairs sits back there on their duffs, making no effort to try to help the Indian contractors or anybody else.

Now, these people sit up there, I got up there many times, personally I believe they are overstaffed, because of the amount of services we get from those people, for the amount of money that is being paid to those people, I don't think they are getting value received for the dollar that is being put out.

Going down to Albuquerque, at Albuquerque a year or so ago they were staffed with 250-some engineers and architects. They got their staff cut back to 52. Now they are coming back, they are coming out on the Buy Indian Act, implementing that and asking for architectural design people, engineering, contracting.

Now, the Bureau of Indian Affairs on an area level here, I think they could do the same thing, cut back, let's streamline the thing, let's get rid of that "fat cat."

Ms. LeBeau. Getting back to what Rod has discussed here on the Bureau of Indian Affairs bonding on contracts for construction and others, the Bureau of Indian Affairs for years past has required Indian contractors and Indian businesses to utilize 100 percent performance and 50 percent payment bond on all negotiated and open bid contracts.

This method of bonding has been mandated by the Bureau of Indian Affairs; however, since 1935 the Code of Federal Regulations, title 41, public contracts and property management, chapter 1 to 2, revised as of January 1, 1974, in section 1–10.204–1 as authorized contractors to utilize alternate bonding methods such as U.S. bonds or notes, and section 1–10.204–2 authorizes contractors to use certified or cashier's check, bank drafts, money orders, currency, or irrevocable letters of credit. The letter of credit method and system have never been brought to the attention of the bidder by the Bureau of Indian Affairs. We encourage the implementation and use of the letter of credit by the BIA. A similar situation existed with the Bureau of Indian Affairs, whereby in 1910 the Buy Indian Act was authorized to give Indian preference and to negotiate service. This act was not initiated or put into effect until the late 1960's. We were then 60 years too late.

If we began to utilize the letter of credit method and force the Bureau to allow it, we again are 41 years behind since this was authorized in 1935.

We recommend that immediate action be taken to implement this alternate bonding system.

It is hoped that some day the Indian people will be able to operate at present day levels and not be caught fighting for laws which were in effect 50 years past.

Now, for those of you that are not familiar with the letter of credit, on one agency that is presently dealing with the irrevocable letter of credit is the housing urban development and housing contract, Indian housing contract. It is being worked in our part of the country. Banks will go along with Indian companies in the use of a letter of credit where as in our country bonding agencies will not bond Indian companies. So we were quite perturbed, as Rod said, when we found this in the Code of Federal Regulations.

Now, what I can't understand personally, this is my opinion, why aren't these laws, which were created for preference for Indians, brought to the attention of Indian people years ago, so the economic development and the impact of economics could have been revealed on the reservations. Like I say, we are operating 40 to 50 years behind in economic development right now and these are some of the reasons.

Mr. Deloria. What reason do the bonding companies give for refusing to bond an Indian company?

Ms. LeBeau. Most Indian companies, if you are starting, a new business start up, you don't have the collateral or the assets that are required. Even, in fact, the non-Indian companies are having quite a time getting bonding. They are just getting tighter and tighter.

Mr. Davis. We had a meeting over in Bismarck about 1 year ago, and they were there for bonding purposes. They had 19 commitments 2 weeks before they met with us, and the day they got there they had nothing. There was a bonding company which is called the Summit Insurance Co. that went down and when they came to our meeting they said it was a Vermillion Construction Co. that did it. We later found out it was a firm here out of Denver, which they said was about $40 million. I found out later it was a firm out of Denver here that went down. They blamed the Indian people that they could never get bonding and that's as far as it ever went. That came through the Indian bank out of Washington.

Mr. Deloria. Was that an Indian company in Denver that has gone down?

Mr. Davis. No, it wasn't.

Mr. Means. One of the things we are finding out with bonding, with the Indian contractors that are operating an Indian company, on reservation, is the fact that the non-Indian contractors, AGC, which is Associated General Contractors of North Dakota, South Dakota, that's where we are working primarily, they have taken it upon themselves to go to our banks that are dealing with us, and telling them people, "Hey, you better lay off that Indian or we are going to take our money someplace else, take our business."

Same way with the bonding people. This has happened.

Mr. DELORIA. Can you document that?

Mr. MEANS. I can get depositions to the fact this happened to me on one job up there at Eagle Butte, S. Dak. It just so happened I took this to my little bank where I lived and he financed my project. I can get depositions to this from people, and I will have that in your hands within the 30-day time.

As far as the bonding is concerned, that is a conspiracy type of thing, that you cannot get documented, but I know, as far as the bank is concerned, I know this is happening to the Indian people.

These are some of the obstacles that we are running into. The Bureau of Indian Affairs, you are talking of the services they render to the Indian businessmen: None, whatsoever, because we are contractors. We go by the specifications, and that's what we go by when we bid a job. The only services that they give us is inspectors on the job. They are there to see that the job goes in correctly. We have to meet all the requirements. Bonding, capabilities, et cetera, whatever the contractor has to meet as criteria. But they are not making any changes, as far as making it at least a little bit easier for the Indians to get into business. You have to meet the criteria regardless. Now, we would like to see the Federal regulation changed, so it is workable.

They are expending millions of dollars in Washington for the very same thing we are trying to do. We have got the Indian Financing Act—millions of dollars. Take for instance, the interest subsidies, we have a number of reservations that have their own revolving loan setup. All right, but they do not have funds in there to expend. Therefore, the Indian from that reservation cannot participate in that subsidy thing. You take an Indian contractor or any businessman, when he borrows money, if he can get subsidized on his interest, my God, that would be a windfall, so to speak, it would help.

These are the things that we are faced with. To take a new business, to start up, we need the technical assistance of those people under the Indian Financing Act and also under the Buy Indian Act they are obligated to do.

I have heard all the testimony today, that keeps coming back to this technical assistance. That is a big farce, as far as the Bureau of Indian Affairs is concerned, because they do not have that type of people. Why do they keep saying, "We have got the technical assistance for you people"? They do not have it. Now, where in the hell are these dollars going for this technical assistance? Where is it going? There must be some kind of appropriation down through the line there, when they make up their budget they must have that inserted there some place. Where is that going?

Ms. LEBEAU. Can I comment on this, Rod? I have this one very short comment here on the Indian Finance Act and I will refer back to what title you can find your technical and management assistance money in.

Indian business grants: Title IV, section 401, and title V, section 501, allows provisions for the applicant of a business development grant the assurance of competent management and technical assistance, with the nature of business being funded. This assistance can be in cooperation with the Small Business Administration and ACTION.

Now, getting back to your question about how do we deal with Small Business Administration. They do have SCORE and they have ACE and various other programs that are available, retired engineers and this type of thing, but they do not cover overall management assistance-type thing. They are in one general specific area. If you need a man in there to teach about grading or something like that they will send that person and that is upon request.

Commissioner BRUCE. Let me ask you a question. There was a meeting 2 weeks ago of Indian businesses in Kansas City. Were you invited to go?

Ms. LEBEAU. No; we weren't. We had one 2 weeks ago in Aberdeen.

Commissioner BRUCE. Was this sponsored by the Bureau of Indian Affairs?

Ms. LEBEAU. Yes.

Mr. BRUCE. You weren't invited?

Ms. LEBEAU. I don't think we were invited or even on the mailing list. In addition to this technical assistance, which is supposed to be available through Small Business and ACTION, the Secretary of the Interior is authorized to contract with private organizations for providing such services and assistance.

It is written right in here. In the section 503, it states that:

> For the purpose of entering into contracts pursuant to section 502 of this title, the Secretary is authorized to use not to exceed 5 percent of any funds appropriated for any fiscal year out of the Indian finance money.

So there is money available in here for management and technical assistance. We feel management capabilities are a key factor to guide business development.

The Bureau of Indian Affairs has limited technical management services available to adequately promote viable businesses.

So we do want to elaborate on this. That there is this money, but how do we get hold of it so that we can use it for individual businesses, or business associations such as ours, to help other Indians go into business.

Commissioner BRUCE. About 2 weeks ago, there was a letter sent out by the Small Business Administration inviting minorities to meet with the new SBA Administrator taking Kleppe's place who is now with Interior. I couldn't go, but two or three people went. And the new Administrator was begging Indians to apply to him, wanting to know all kinds of background information about why Indians weren't getting assistance in the regional offices or in the district offices, and if they were having any problems, to come and see him directly.

Mr. MEANS. This is news to us.

Commissioner BRUCE. This is about 2 weeks ago.

Mr. MEANS. This was news to us. In the State of South Dakota, we have a regional office or a district office in Sioux Falls, they are the same—it is another bureaucratic thing that they kick around—and we have contacted them many times. They meet in Rapid City once a month, and I have talked to the people there in behalf of some businesses. We get no place. So we come right here direct to Denver and talk to these people. There is one lady here who is a wonderful person.

She is bonding and securities. She takes it upon herself to go into these other departments to try to help the Indian people. She has done a wonderful job. She has come up to one meeting and she is available to us any time.

These are the things we are trying to do for our Indian contractors. We have got many diversified contractors. In North Dakota, for instance, take the Turtle Mountain restorers, they have one of the largest consortia of diversified contractors in any field. We got with the AGC up there in North Dakota here just a couple of weeks ago. We cracked that shell because of the fact they were not dealing with minorities. They were not complying with the Federal regulations. So we got that door open. These are the things we are trying to do.

But getting back, I want to touch on one more thing, then I am through. I want to touch on the urban Indians. The urban Indians are being penalized because they are off the reservation, but I think they missed one point when they deleted the urban Indian from these benefits, the Indian Financing Act. These businesses set up off the reservation will employ their Indian people when they come into these areas. Now, employment is one of the greatest problems we have on the reservation for our Indian people, there isn't that much employment on the reservation, therefore, they have to go outside. So what is a better place to go than where we have got Indian businesses?

If these Indian people that are off the reservation were to band together they would be the largest nonrecognized tribe in the country. So these are the things that are hurting the people. We are hurting our Indian people. We are discouraging them from leaving the reservation by taking these benefits away from them.

Ms. LeBeau. Are there any questions?

Mr. Deloria. I have one final question. The members of your association who do business on the reservation, do they have trouble entering into business relationships with non-Indian firms off the reservation because of jurisdictional problems?

Mr. Means. Right at this time outside of a few of the people like Violet and her company, Francis and his company, there is very little outside contracting, as far as the open market is concerned. Not that they are not capable, but it is a fact that there is enough contracting on the reservation to keep all the contractors busy.

Mr. Deloria. You mean for supplies or something like that?

Mr. Means. No problem.

Mr. Deloria. No problem.

Ms. LeBeau. Can I just read one short thing on the American Indian Policy Review Commission recommendation that we have developed here:

The American Indian Policy Review Commission has been created by Congress to conduct a comprehensive review of historical and legal developments between the American Indians and the Federal Government, and to help determine the nature and scope of necessary revisions in the formulation of policies and programs for the benefit of Indians.

This law was created on a short-term basis and as a "one-shot deal" in order to accomplish its tasks.

In order to avoid a gap between survey, review, planning, and formulation and implementation of policies, it seems feasible to establish a permanent "umbrella" agency or entity such as the American Indian Policy Review Commission, directly under the Cabinet level to deal with and monitor Indian policies as set forth in the findings of the Commission.

This Commission would be one which would not be directly under or function as a bureaucratic agency, but would serve as a "sounding board" or "voice" of the Indian people. We recommend that the American Indian Policy Review Commission be established as a permanent facility under Congress.

Commissioner DEER. Thank you very much.

Mr. DAVIS. Who was supposed to have let us know about this Indian businessmen's meeting?

Commissioner BRUCE. I don't know. I don't know who went.

Mr. DAVIS. I never got a notice.

Commissioner BRUCE. I just heard about it today, the SBA Technical Assistance to Businesses, in Kansas, 2 weeks ago Monday.

Commissioner DEER. Mr. Blanchard Matte will be our last witness. We understand he was one of the first witnesses signed up, but in order to accommodate some of the other people who did have to leave, there was some mixup, so we extend our apologies for the lateness.

STATEMENT OF BLANCHARD MATTE, ACTING CHAIRMAN, GOVERNOR'S INDIAN ADVISORY COUNCIL, WASHINGTON STATE AND BUSINESS MANAGER, LOWER ELWHA OF THE CLALLAM TRIBE

Mr. MATTE. Thank you for letting me know I was first on the list. I will get to that later. However, right now, what I am really concerned about is restructure.

My name is Blanchard Matte. I am acting chairman of the Governor's Indian Advisory Council in Washington State, and the business manager for the Lower Elwha of the Clallam Tribe.

Talking about restructure or readjustment of the BIA: I was looking at the budget and some figures in a pamphlet that was sent out to the tribes—the information packet for this particular conference—and we are talking about $932 million on a population figure of 530,000 Indians.

Rounding some figures off—calling that 530,000, and $932 million $1 billion—that roughly amounts to $2,000 per Indian. Therefore, I would recommend that this Bureau budget that we are talking about, almost $1 billion—now, if we took and abolished all BIA administration, anything to do with the BIA, just wipe them out completely, just get rid of every one of them, and take that $2,000 and turn it over to the tribal governments, and let the tribal governments have their say, what they want to do with that $2,000, for instance, the Lower Elwha have an enrollment of 311—I'll round that off to 300—that would give us $600,000 to operate.

Now, just think in terms—Navajos, over 100,000. OK, that $2,000, and logically speaking I think they deserve it, that would give them $200 million, and they need it.

Working in those terms, or in those realities, which I feel is very logical, I hope that this Review Commission takes into consideration some of the restructuring of this. OK, I think I made my point on that.

Second, our last people up here, Mr. Rod Means, made a recommendation that the Policy Review Commission be extended. I would agree with them because we had a Meriam report in 1928. How long did that report exist? Apparently they were instrumental in coming up with the Indian Reorganization Act and also Johnson-O'Malley, which is roughly in terms of what, 6 years? But who chopped them off?

Now, I say that there shouldn't be anyone to really chop this Policy Review Commission. I know it is under a public law that could possibly be extended. Maybe the chairman, or some of the Members of Congress may not want to have it extended, but I think enough tribal leaders across the Nation here wish to do so. Say that there are seven major goals that this Commission has to deal with. I don't think that they can do all the investigation in 1 year and take another year to compile that into draft and have it ready by June 30, 1977. That is almost impossible to do in 2 years.

Okay, I made my point there, I hope.

I want to be very short. I waited here all day and I just want a matter of record of saying that: What is this particular hearing right now? I just want to call a little point of order. In fact, I feel that we do not have a hearing here since we have no congressional Member here present. Therefore, what are we doing right now? Is this testimony delivered by observation? There are several categories that are listed that you are compiling. I feel if we continue along with the program of having a public hearing for the 8th and 9th, that we should have some congressional people present for tomorrow's hearing.

Last, I guess, would be that I was first on the list. I noticed the gentleman on the bottom of the list testified way before I did. I have a friend out here right now from the Tulalip Tribe that has been sitting here all day waiting to be scheduled. I think possibly that a personal apology from maybe Kirke Kickingbird might be in order, or the director of the Policy Review Commission to make these apologies to the list of tribes below or above the last person on the list here. I won't mention any names. I will just turn this over here. I don't want to embarass any people here. But I think if we are going to be dealing with policy, you got to think about the feelings of other tribes and what they are doing. They have feelings. So I feel, you know, this commission here, it is a very good commission and I would like to see it still exist.

I am ready for any questions about the restructure of BIA or any other item you may want to question me about.

Commissioner DIAL. Perhaps if we would look at this meeting as a task force hearing and not a meeting of the commission, because basically, Ada, this is what it is mostly today.

Commissioner DEER. No.

Commissioner DIAL. I know, you can call it what you want to call it, but I am telling you in order to have a commission hearing you have to have——

Mr. MATTE. You have to have a quorum.

Commissioner DIAL [continuing]. You have to have a Congressman present; am I right?

Commissioner **Deer**. I would like to ask, Kirke, would you respond to that as counsel?

Mr. **Deloria**. Let's take the man's testimony and we can worry what it was we were taking later on, in the General Counsel's opinion. We have been here since 9 o'clock this morning; it is now 7:15.

Mr. **Matte**. If we continue with the hearing, it is true, six members on the Board compose a quorum, provided they have a congressional Member present.

Mr. **Deloria**. We will refer that to the General Counsel. Do you have any further statement to make with respect to the Bureau of Indian Affairs or those kinds of problems?

Mr. **Matte**. Do I have any more what?

Mr. **Deloria**. Any more statements to make with respect to the BIA and the subject of this hearing or meeting, or whatever this is?

Mr. **Matte**. Yes. I would like to probably go on record tomorrow morning, probably around 9 o'clock if we have an official hearing.

Mr. **Deloria**. This body can receive testimony. Is that right, Kirke?

Mr. **Kickingbird**. That is correct. As Adolph indicated, it is a commission hearing in conjunction with the task force. In the absence of a congressional Member you are convened as a task force and can receive testimony.

Commissioner **Dial**. May I say one thing?

Mr. **Matte**. Excuse me 1 minute. I don't mean to interrupt. I want to get out here as soon as you do, too. There is one tribe here that pointed out the fact—where is that representative? The Standing Rock Sioux, I believe it was, brought up that particular point, which I thought was kind of a valid point. So, therefore, I would recommend if you publicize this as a hearing, we better get some congressional people here.

That is all I have to say.

Commissioner **Dial**. I think since I made the statement I need one more comment, Mr. Deloria.

What I am saying is this: We could not take an official vote here today without a quorum of six people, with one Congressman present. Am I correct, Mr. Kickingbird, that we can receive all the testimony that we can possibly hear, which we have been doing all day long, but we could not take an official vote here without a Congressman? Because if so, I would like to maybe sit that way and we would really get—well, you know, we have got a lot of power. But when the law was enacted, it was enacted that Congressmen be present to get something through. That was to—you know what it was for.

Mr. **Matte**. At this time, if I could request a hearing in the State of Washington, in the Northwest, in the western part of the State of Washington, I would like to extend an invitation to the Policy Review Commission. They had a hearing up there, I think it was in February, in Yakima, but that was on the other side of the mountains. This is why I feel it is also important for the extension of your commission. Therefore, I want to extend an invitation so you could come on the other side of the mountain, and there are some other States, too, there that I would probably say feel the same way I do.

Commissioner DEER. Do you have any specific recommendations about how long you think the commission should be extended or any other points?

Mr. MATTE. In your pamphlet there, another public law, you stated seven goals you have to accomplish, seven deliverables. You review those goals and you see how long that would take you. That will determine how long you think you should be in existence.

Commissioner DEER. Did you have any other point?

Mr. MATTE. No. I want to thank you for letting me speak today. Will you have any congressional delegation here tomorrow?

Mr. GOETTING. Supposed to.

Mr. MATTE. If so, can I bring this to the floor tomorrow so everybody could hear some of the things I feel are very valid in the fact of restructuring of the BIA?

Commissioner DEER. We thank you very much.

The meeting will be recessed until tomorrow at 9 o'clock. We will be meeting in the ballroom.

[Whereupon, at 7:30 p.m., the hearing was recessed until 9 a.m., Sunday, May 9, 1976.]

MEETINGS OF THE AMERICAN INDIAN POLICY REVIEW COMMISSION

SUNDAY, MAY 9, 1976

American Indian Policy Review Commission,
Denver, Colo.

The Commission met, pursuant to notice at 9:10 a.m., at the Hilton Airport Inn, Denver, Colo., Senator James Abourezk (chairman) presiding.

Present: Senator Abourezk and Commissioners Deer, Whitecrow, Borbridge, Bruce, and Dial.

Also present: Kirke Kickingbird, general counsel.

Task Force No. 3—Federal Administration and Structure of Indian Affairs personnel present: Sam Deloria, Ray Goetting, and Mel Tonasket.

Chairman **Abourezk**. The hearing will come to order.

The first witness is Wilford Gurneau. Before Mr. Gurneau starts, I would like to recognize Commissioner Louis Bruce.

Commissioner **Bruce**. Mr. Chairman, I would like to introduce a resolution and request the Commission to vote on the resolution to extend our sympathy to the family and friends of Wilbur Atcitty, who was killed 2 nights ago in an automobile accident. He was chairman of the Tribal Government Task Force. The funeral will probably be tomorrow. But I think we ought to extend, and I am sure we all want to, our sympathy to the family.

Chairman **Abourezk**. Without objection, the resolution will be agreed to. I, speaking for myself, want to say that Wilbur will be missed by not only those of us who work on the Commission but by everybody who knew him, worked with him, his tribe, and his family. I want to thank Commissioner Bruce for offering the resolution.

Mr. Gurneau, if you are ready to present your testimony over the hum of the amplifier, go ahead.

STATEMENT OF WILFORD GURNEAU, CHIPPEWA TRIBE

Mr. **Gurneau**. Thank you, Mr. Chairman, members of the Commission. Rather than go into generalities, I would just like to speak on changes within the Bureau structure concerning social services. This has been quite a concern of mine and also my people in Minnesota, the Chippewa Tribe.

We have quite a few of our children that are going into foster care or other substitute care, some other living arrangements outside their own homes.

You will find this in my testimony, in the middle part where it says "Minnesota's Indian Reservations," where there is documentation. I would just like to briefly go over that with you, especially about number 3 where it says "Minnesota places about 100 children per year in facilities outside Minnesota," and number 4, "There were 1,553 children placed for adoption in 1975. Eighty-nine of these children were native Americans, two of which went to native American adoptive homes."

"5. There were 1,130 children placed in correctional institutions in 1975. Native Americans represent approximately 20 percent in this category."

"6. 550 children were placed in foster care last year in Hennepin County." That is in the Minneapolis area. There were 700 children in the St. Paul area, and it is estimated that in 1975 approximately 1,000 native American children were placed in foster care. Right now there are approximately 130 native American foster homes in Minnesota.

Some proposed changes or suggestions within the Bureau structure——

Chairman ABOUREZK. It will be necessary for you to talk a little louder now so that everybody can hear you. We have had to turn the amplifier off. I decided to turn it off rather than to have that hum.

Mr. GURNEAU. The Minnesota Tribe would like to see more moneys allotted to the Social Services Department of the Bureau for: (a) Funding for start-up costs for a Native American agency to develop itself into a viable social service agency; (b) funding for native American social service agencies now in existence and meet State regulations to become child-caring and child-placing agencies; (c) to enact some legislation or make stipulations in regard to Federal funds going to States for child-welfare services, and that every effort be made to place native American children in native American homes and seek out native American resources to augment the services of State and county agencies.

That is our recommendation from the State of Minnesota.

We have had a difficult time with the social service representative from the area office in Minneapolis, where they will not help us with funds to carry out the work that is necessary to keep our families together and keep our children. They must be removed from their homes, the native American homes.

I also would like to ask some questions of the commission here. I can't seem to get an answer from the Bureau on what their role is in helping the agency get started, and also——

Chairman ABOUREZK. What kind of agency do you mean?

Mr. GURNEAU. This is our own social service agency staffed by all native Americans. We have been in existence now for about 4 years. Even with documentation of need, the State is in agreement, and so are all the social service agencies within the State agreed that there is a need for such an agency to serve our people.

Private funding agencies or private foundations always come back and tell us that it is the responsibility of the Government, the State and the counties to provide these services. We know that. But yet they are not doing their job. We know that also, and they know it. But yet the Bureau, faced with the statistics—facts—will not help us keep this agency going within the tribes.

We know well that there is need for such an agency, like I said before, but we just can't get the Bureau to move on this. Some of the changes that are here in the back, this is what we came up with in Minnesota.

Chairman ABOUREZK. I personally agree with your concept of Indians adopting Indian children. We took a quick look 1 year or so ago at the adoption practices of some of the State and county welfare agencies around the country, and learned that in many places that State and county welfare were trying to adopt Indian children out to white families and it was determined that they were totally unsuited for that kind of thing. I think it is a good concept to do that. So what you are saying in your testimony is that providing help for social service agencies within the tribe ought to be done with the assistance of the Bureau. Is that how I understand you to mean?

Mr. GURNEAU. Yes.

Chairman ABOUREZK. You are talking about money help, that's what you need?

Mr. GURNEAU. Yes. Mr. Chairman, they are helping through a contract through the Bureau, but with a service population of 27,000 and a staff of 3, it is next to impossible, a tokenism, as far as I am concerned. I believe in our State we are paving the way in this area where we are reuniting families that have been separated, either through the courts or by some other means. In the past 3½ years we have reunited 153 children through the courts or through negotiations with the counties who have had custody of those children.

We are proving that Indian people can do this through having their own social service agencies. We have a man there that has no intestinal fortitude at all within the Bureau. His name is Harold Smith. He is not helping us the way he should be.

To return to the question that I would like to have answered by this commission, that would be: Is it not the role of that social service representative from the Bureau to help agencies or some organizations that are working in this area that are faced with needs?

Chairman ABOUREZK. My answer is, yes.

Mr. GURNEAU. Well, this man refuses to do this.

Commissioner BRUCE. Area director?

Mr. GURNEAU. The area director is new there. His name is George Goodwin. He tells us it is all up to the social service representative within the Bureau there in the area office in Minneapolis. Speaking with him he says, "This is all the money we got to work with." But he does not advocate our position at all, even though, faced with facts, the need is there. He refuses to help in any fashion other than what the Bureau says he can have.

Chairman ABOUREZK. Any other questions?

If not, Mr. Gurneau, I want to thank you very much for your testimony and your appearance here today.

Mr. GURNEAU. Thank you.

Chairman ABOUREZK. The next witnesses are John Lufkins and Jim Hillman from the Michigan Commission on Indian Affairs.

STATEMENTS OF JOHN LUFKINS AND JIM HILLMAN, MICHIGAN COMMISSION ON INDIAN AFFAIRS

Mr. LUFKINS. Good morning, Mr. Chairman.

Chairman ABOUREZK. The mikes aren't working, so I will have to ask you to project your voice much louder than you ordinarily would. Try to be like an actor or a politician.

Mr. LUFKINS. Of which we are neither.

My name is John Lufkins. I am chairman of the Commission on Indian Affairs, and this is Jim Hillman; he is the director of the Commission.

We have a unique situation in Michigan whereas over the past several years we have not had a Bureau of Indian Affairs office located in Michigan to deal directly with the tribes until recently. Two and a half years ago I started working on procuring an agency office in Michigan. With the help of the President's office—the Domestic Council when it was working, I don't know if it is disbanded now or not, but with the help of that office—and the congressional people from Michigan, we were able to get a commitment from Commissioner Thompson to place an office in Michigan. It was recently accomplished, in April of 1976.

It is a skeleton staff in that it has one man, the superintendent, and a temporary secretary.

So all of our problems with the Bureau are, I suppose, negative, in that we were being serviced from the Ashland Agency office over in Wisconsin The Ashland office from the Mount Pleasant Reservation is 512 miles away, approximately. It takes the better part of a day traveling there to find out that there is no money for services for Michigan tribes. So the tribes go back home with, I suppose, a feeling of despair.

Now, we have got some recommendations, some specific recommendations, that we would like to make and they deal not only with the Bureau of Indian Affairs but also Federal policy relating to Indians. One is that the Federal Government has the responsibility to provide services to off-reservation urban and rural Indians in the State of Michigan. We have two major tribes in Michigan that were overlooked under the Indian Reorganization Act. Each of those particular tribes or bands of Indians have approximately 8,000 members on their rolls and at the present time they do not receive services from the Bureau. As a matter of fact, Commissioner Thompson just issued a telegram 2 months ago——

Mr. HILLMAN. March 3.

Mr. LUFKINS [continuing]. March 3, stating that they will not be eligible for any services that were provided under the Bureau prior to that date.

Another recommendation that we have is that the Federal Government utilize the State agencies to administer programs for Indians. For instance, the IGPA 701 Planning Grants, LEA education programs, and other programs are funneled through the State agencies and then down onto the Indian tribe.

It is important to note here that the State takes off its administrative costs for this, and eventually, when it comes through the bureaucratic channel, from the Federal level to the regional level, to the State level, to the local level, there is a lot of money that is being ripped off for administrative purposes. When it gets down to actual moneys being provided for services to Indians there isn't that much left.

We advocate that the Federal Government deal directly with Indian groups and organizations, both tribal and other bodies, without using the intermediary regional government or other State agencies for implementation of Indian programs. That is, the Federal Government deal directly with Indian groups.

Chairman ABOUREZK. On that point, if I can just interrupt a minute, I want to ask the task force to speak on this for just a minute. Have you undertaken a study yet as to how much money has gone to administration? How much is wasted by virtue of not dealing directly with the tribes? Is that underway?

Mr. DELORIA. You mean in the Bureau?

Chairman ABOUREZK. For any Federal programs, including the Bureau.

Mr. GOETTING. Across the board we are making a total budget study that should reflect this. We are not sure of the accountability and records of certain areas and certain agencies, that they are identifying it. but we are trying to get that information as best we can. The General Accounting Office is helping us and we have several reports we are analyzing for that purpose.

Chairman ABOUREZK. Thank you. That is a good point.

Mr. LUFKINS. Our point is: There could be more money provided for Indian services without any additional congressional appropriation if the administrative jungle was eliminated.

The third point that we want to make is that the Indian tribes in Michigan off reservation and urban have a lack of legal clout to effect changes in their mineral rights, hunting and fishing rights, civil and criminal jurisdiction, and other legal issues.

We recommend that the Federal Government provide block grants of complete discretionary use for the tribes and other Indian groups and organizations to obtain legal help whenever and for whatever purposes the Indians need.

Until very recently Michigan has not had an LEA program. We currently have three tribal groups that have their own attorney, but they are completely tied up in treaty legal issues that the State has entered into against Indian tribes.

Another point that we wish to make: All too often the Federal Government—Bureau personnel, every Federal agency that deals with Indians, I guess with the exception of NIAAA—funds an Indian program for a period of 1 year. They underfund it and they come in at the end of 1 year and say, "You didn't spend the money the way the contract said so you are not going to get another contract." They don't provide the technical assistance to allow the tribe to adequately service the people under the contract. We would advocate that Federal agencies in the Bureau dealing or contracting with tribes give the tribes or Indian organizations a 5-year contract funding period in order to provide services for the Indian people that they are contracting for. A lot of time is spent negotiating contracts, politicking to insure that you have a contract for the coming year that is turned into a personal vendetta by those people running the contract to have job security rather than providing services.

Another point that we wish to make is that the Federal Government require the various States to honor Indian treaty rights and that the States should not be allowed any enforcement of those rights. The Federal Government should increase grants to protect the Indian rights and must provide funds for Indians to enforce their own rules and regulations.

We have a hunting and fishing case involved with the State of Michigan at this point in time, which is clearly given to the Bay Mills Tribe of Chippewa Indians in an 1855 treaty. The State contends they do not have that right, have taken them to court, and at this point it sits within the Michigan Supreme Court.

Again, we would like the Federal Government to take and force, if you will, the States to honor the treaty rights made by the Federal Government.

Mr. Deloria. Is the Federal Government supporting the tribe in this litigation? Is the tribe paying for its own attorneys, or the Justice Department?

Mr. Lufkins. We have a grant, the Bay Mills Tribe—I am a member of the Bay Mills Tribe—we have a grant from the Campaign for Human Development to fund a legal service person. This person is working full time on the hunting and fishing case. It is pursued by an individual, taken through the Michigan court system. At the same time, the Federal Government has gone into Federal District Court in Grand Rapids, Mich., against the State to uphold the treaty rights. That suit was filed approximately 3 years ago and it has not yet got into litigation, I guess is the word. I am not too much up on legal terminology.

Although Michigan is not a 280 State, the commission would advocate that Public Law 83–280 be repealed.

Another recommendation that we have is that the Indians be given control of all civil and criminal jurisdiction within the confines of their reservation, if that is what the tribe desires. Each individual tribe should have the right to make that determination.

The gentleman prior to us stated a good case to back up that recommendation.

We, in Michigan, have long been plagued by the Department of Social Services coming in and taking our Indian children and placing them in white foster homes or adopting them out into white families. We feel that this is wrong.

Two years ago we received a child protection worker in Michigan to deal with Indian kids that the Social Service Department has, I call it adopted, but have taken away from the parents, and is working to find Indian homes and Indian adoptive parents.

The eighth recommendation that I have is that the Federal Government allow more flexibility for Indian people to develop programs which fit their needs. One point, as an example, is the education grants in Michigan do not allow any funding at the State level for the provision of technical assistance to Indian parent committees. The State, obviously, has no obligation of its own.

We think that there should be a place on the application to indicate whether or not parent committees would allow certain of its funds for technical assistance from State or Federal or outside educational concerns.

I also have some testimony here that was compiled by the Michigan Commission on Indian Affairs who have voiced their concerns on the matter.

My own personal view: I would much rather see the Bureau of Indian Affairs done away with. It has adverse connotations on the Indian people. They have not been responsive to Indian people in the past and I don't think anything you do will make them responsive as long as they remain within the Department of Interior.

I would advocate—because of the name Bureau of Indian Affairs and what it has implied over the past years—that the name be changed to something else and get a fresh start either on its own super agency or a department within the Federal Government.

I would also advocate that Congress introduce and support an amendment to the Constitution supporting the election of Indian Representatives and Senators to sit and have a legal voice within the House and Senate of the United States.

I want to thank you. I think Jim has some other things he will get on to.

Chairman ABOUREZK. Do you have a separate statement?

Mr. HILLMAN. Yes.

Chairman ABOUREZK. Is it very long?

Mr. HILLMAN. I will be brief.

Chairman ABOUREZK. OK.

Mr. HILLMAN. The statement you have in front of you primarily deals with a number of Federal programs and the fact that there are very many Federal programs, and it also deals with the State role. I think John has touched on those kinds of things. There are several steps intermediary.

In thinking about this process, Senator, I think a number of statements are the cornerstone of our belief about the relationship that the Bureau of Indian Affairs and the Federal Government ought to have to the Indian people.

No. 1 is that the Federal Government has a trust relationship with the Indian people and that must be emphasized throughout. I think the problem has been in the past that the Bureau of Indian Affairs, to whom this responsibility has been entrusted, has not performed that trust responsibility. In my opinion, and this is my own personal opinion, the only problem that the tribal people are facing is funding. That is the only problem. If the Indian people were economically independent, then they would be able to handle and fight for their rights and maintain identity, so on and so forth. I think the entire issue of recommendations must be aimed at the development of the budget process that will provide maximum benefit to the tribes.

Senator, there is a very unique thing here about the Bureau of Indian Affairs I think should be explained. The funding that is provided by the Federal Government is provided for such things as social services, education on Indian reservations, health purposes, housing, roads, law enforcement, so on and so forth. There is no comparable agency in the Federal Government which handles those things for other than Indian tribes, that is a city or county does this out of a tax base, and a city or a county develops their own budget process and they don't have any Federal agency to deal with.

My recommendation, therefore, is to put that same kind of budgetary development process in the hands of the Indian people.

Now, the budget process at the Federal level is generated by some one person picking up that pencil and looking at the budget that was presented the previous year and basing, therefore, the budget recommendations on expansion of the existing budget, and therefore you are going to justify why this change and justify that change. My recommendation is that you just stop all of that for a year and let the Indian tribes, without any limit whatsoever, develop an unlimited budget, develop a budget that will cover all the things the tribe wants to do, for whatever purpose, and submit that to the Federal Government and hope that the Congress will pay attention to it.

My concern here is that I don't think there is a need for a Bureau of Indian Affairs if the Federal Government is serious about its trust responsibility, and if it is not serious about that trust responsibility, then we are all wasting our time here.

Senator, I am pleased that you are here but I am also very disappointed that other Members of the congressional delegation that are on this Commission are not here with you. It bothers me very much to think that things that affect our Indian people all across the country are going to get shortchanged in the Congress. It bothers me very much because we are really talking about the will of the Congress to protect that trust responsibility, and if we have that protection and that guarantee, perhaps what we need is a new treaty for all Indian people here, or an amendment to the Constitution which would definitely say there is going to be a trust responsibility, then we could deal with the problems rather than dealing with the Bureau.

I have a set of recommendations here, it looks rather lengthy, but I am going to detail this as briefly as I can.

1. That each Indian tribe develop a budget based on what it wants to do, irregardless of the hangups and the problems and the likelihood of funding.

2. That an all-Indian elective body be created at the Washington level to receive these budgets and to work directly with the Congress to implement these budgets into a Federal budget.

Some of the ways this can be done is that all of the Indian portions of labor, health, education and welfare, and other agencies be considered to be tapped to create this budget.

3. That a separate Indian Department be developed to insure that adequate attention is given to such issues as may arise, to provide technical assistance to the tribes, and to provide the mechanism for but not the control over Indian programs.

4. That the Bureau of Indian Affairs is not an adequate vehicle for maintaining the trust responsibilities of the U.S. Government and should be abolished. The funding for tribal programs should be able to utilize its appropriations.

5. That urban dwelling Indians should be provided a similar planning opportunity within the framework of existing Federal programs; that is, that a mandate in Federal legislation require that any grant, say, going to the City of Detroit hold apart a separate set-aside for Indians who live in urban areas, and that it be further required that

those Indians develop their own plans for expending those funds without interference and competition from other minority groups.

6. That the States, being the primary recipient of the U.S. Government's largesse with Indian lands be mandated to provide appropriations to match the Federal appropriations. Some kind of budget, I think, could be worked out that would take into account the total Indian population, the total State budget, so on and so forth. But they have got our land now and they are the ones giving us the most trouble. It is the State of Michigan that is in court against the Indians. I think that that is a shame and a disgrace and I think it has gone on far too long. We shouldn't have to fight for rights like that.

That concludes my testimony. I thank you very much for the opportunity to appear.

Chairman ABOUREZK. Thank you very much.

Any questions? If not, we want to express our gratitude to you for your appearance and your testimony.

Mr. HILLMAN. One thing, we would like to leave with you a map of the State of Michigan because I don't think the Bureau knows there is a State of Michigan. I do think we should leave it with you.

Chairman ABOUREZK. You should leave it with the Bureau.

The next witness is David Gardner.

STATEMENT OF DAVID GARDNER, PRINCIPAL CHIEF, CHOCTAW NATION OF OKLAHOMA

Mr. GARDNER. My name is David Gardner, principal chief of the Choctaw Nation of Oklahoma.

I would like to give you a brief history of the Choctaw Tribe. It is one of the Five Civilized Tribes. The Choctaws were the first to be removed from southeastern Oklahoma to what is presently known as Oklahoma, and that trail or removal became known as the Five Civilized Tribes "Trail of Tears" march.

There was a lot of adjusting to make on behalf of all the tribes making this relocation, and I think they did it quite well. Mechanism seems to change and direction as to how these tribes should assimilate with other people coming to the new Indian territories destined to be the State of Oklahoma. The Atoka Agreement of 1887, coupled with the Dawes Commission, which was to equally divide the Indian territories among the individuals, was, I think, the starting of the breakdown of these five great tribes. Of course, in 1906 an act was passed to finally abolish all forms of tribal government, with one exception, the principal chiefs of these five tribes were left to speak as the sole authority for these five tribes and that is the way it has been since statehood up until 1970 there was an act passed to allow these tribes to elect their headmen. In 1975 I was the first nonincumbent principal chief to be elected since the 1970 act.

That is a brief history of the trek of the Choctaws along with the four other civilized tribes.

I would like to preface my recommendations with a story my daughter has told if Commissioner Whitecrow will bear with me one more time. He has heard this before, but I think it proves a point quite well.

My 12-year-old daughter came in from school one afternoon kind of upset. Of course, being a father, I was quite concerned. I didn't know the magnitude of her unrest until she said they were making fun of of me. I said, How is that?"

She said, "Well, they are calling you and the other four chiefs the 'Five Chiselized Tribes Chief.' "

I would like to point out a few reasons why I think maybe there is a little justification in some youngsters calling the Five Civilized Tribes the "Five Chiselized Tribes." It is easy to be critical, sometimes difficult to make recommendations. I would like to offer something in the form of recommendations that I feel would improve the services now available to the Five Tribes of Oklahoma.

I think it is essential and necessary that we have a voice that is readily recognized where our Federal fathers live, in Washington, and I can think of no better place than to have the Indian Affairs located at the Executive Office of our Government. I would propose to have an Office of Indian Affairs in the White House under the President.

Also, I believe that the trust responsibility that was mentioned briefly by the spokesmen before me, and trust responsibility is another area that is needed desperately, and I would recommend that the Trust Responsibilities Office now existing in the Bureau of Indian Affairs be subdivided to handle Indian trust properties as well as tribal loan properties, since we have both in Oklahoma, and it is apparent that the Department of Interior has had a hard time recognizing which has the priority in forest trust lands. It seems, though, the Choctaws have always come out second-best to other Government agencies.

Also, we would recommend a performance bond be levied against the Department of Interior for $1 million. I know that sounds a little unreasonable, but I ask you, would you allow an engineer or contractor to build a multimillion dollar building for you without being bonded? I think the same obligations are accountable here.

I would recommend that this bonding process be handled by a separate agency other than the Department of Interior. Once the trust has to be paid off, I think you would gain the attention necessary to see that the trust responsibility is carried out.

I also recommend the establishment of a legal services corporation be available in the District of Columbia for trust-related legal problems.

The Choctaw Tribe has several suits that could be, I think, astronomical in recouping our lease, obtaining some of the moneys that are due from misuse or loss of these lands. We do not have the vehicle necessary to get the legal attention when the mechanisms start.

With those recommendations I have five other issues I wish to share with you and ask for your recommendations and solution.

Welfare is a much needed program among our tribal people, but at the same time I think the qualification criteria is inconsistent to the Five Civilized Tribes and other Indians of this country. Presently, no one can own more than 40 acres in order to receive welfare. I know of no other State that requires its Indian citizens to sell all but 40 acres in order to receive welfare assistance. I don't believe the State of Oklahoma has that authority when the U.S. Government sponsors this welfare and doesn't require the other States participating in the same program.

Tribal water rights is presently being ignored by the Bureau under its trust responsibility, I feel. At present in Oklahoma there is a plan to transfer water from southeast Oklahoma to other parts of the State, and there has been no consideration given to the Indian water rights. We have petitioned the State to determine what the water rights are. So I ask your assistance in establishing a clear definition of water rights for the tribes in Oklahoma.

3. Public works projects—EDA, HUD, FFA, FOR, just to name a few, are very popular funding agencies these days to Indian tribes of public facilities. However, I do not feel the tribes are having adequate input in the planning or obtaining of these grants. It appears that you have to go in and ask to get what you want in the application and they will decide if it is approved or not.

I would recommend the tribe establish a commission similar to the title V Commissions of the Public Works and Economic Development Act of 1965 known as the Regional Planning Commissions. In these planning commissions the governors of these States, plus the Federal representative, solely decide how these moneys are going to be spent in the regions. I think a similar type mechanism could work very beautifully for the expending of Federal public works funds for Indian tribes.

Reutilization of Government property could greatly enhance the tribal efforts in the economic development area. We are all aware that the Government spends millions of dollars each year obtaining property to carry out our defense requirements. When this property is no longer needed by the Defense Department it is made available to the other Government agencies.

This is good property, some of it is not even used. I think the tribes, if given the proper direction in developing plans and given the same access as our civil defense systems in acquiring this property for their use, could make better reutilization of this excess property that usually trickles to Government agencies and on down to State surplus offices and then on a final sale.

My last complaint is the reservation versus the nonreservation tribes. There are a lot of programs designed primarily for reservation Indians. I don't begrudge these. I think all the programs are needed, although I do think the State that has the most Indians of any State in this country is entitled to participate in these programs. Four of these tribes are being left out because they are not identified as reservation tribes.

This could be remedied by merely changing the criteria requiring all tribes to be federally recognized. We are aware that the reservation Indians are federally recognized.

Also, in the most recent ruling by the Department of Interior in regard to Indian preference in hiring in the Bureau of Indian Affairs and Indian Health Service, I think the Five Tribes of Oklahoma have been grossly discriminated against because they are requiring them to be one-half Indian where the other tribes do not have to be.

I am including with my statement copy that appeared in the daily Oklahoman that describes the situation beautifully.

I humbly ask your assistance in solving some of these problems I have presented to you this morning.

Chairman ABOUREZK. Thank you very much, Dave. That was a good set of recommendations.

Are there any questions by any of the Commissioners or the task force members?

Mr. DELORIA. We are running a little ahead of time here so I guess we can afford a few questions.

Chairman ABOUREZK. Don't feel like you need to fill up the time.

Mr. DELORIA. Chief Gardner. maybe I am the only one that doesn't grasp this. it wouldn't be the first time. but I wonder if you could describe a little bit more specifically your section II here on page 5 regarding the distinction you are drawing between Indian trust properties within public lands and tribally owned lands in trust.

My understanding is that one distinction in Oklahoma is between lands that are held with a restricted fee patent and trust lands. Are there trust lands within Federally owned lands. is that what you are getting at? I don't understand this distinction. I am not well informed on this.

Mr. GARDNER. For example, if there is another Government agency owning land adjoining ours, such as the Forestry Department or the Corps of Engineers, our priorities seem to come in second as to being properly protected.

Mr. DELORIA. I see. That is a significant problem for you?

Mr. GARDNER. I feel it is because we have no recourse in addressing these grievances.

Mr. DELORIA. Thank you. Regarding the welfare assistance problem: Do you know if the Interior Department has been requested to rule on this issue. if the Solicitor's office has ever issued an opinion or if the Interior Department has ever tried to raise this question with the Department of HEW regardng whether these Oklahoma welfare regulations are legal under the Social Security Act?

Mr. GARDNER. I am not aware if there has been such a request.

Mr. DELORIA. You are not aware of that.

On the question of the eligibility of Oklahoma tribes for Federal domestic assistance programs. As you probably know. we have had somewhat limited resources with the task forces. One thing that could be very helpful to us in making recommendations on this point would be if the Oklahoma tribes would draw up a list of the programs that they are now eligible for and participating in and the ones they are excluded from on this basis so that we can make some concrete recommendations in this regard. That would be very helpful because in studying the statutes and the regulations it is not always easy to determine exactly how these programs are being administered. You are the people that know where the shoe pinches. and if you could let us know it would be very helpful.

Mr. GARDNER. I agree with you. We have had occasion in the past to try to convince funding agencies that we are a local unit of Government, that we qualify to participate in certain public works projects. I appreciate that.

Mr. Deloria. I have one further question on your suggestion regarding the title V regional commissions. I think that is an ingenious suggestion. Would you recommend, then, that title V be amended, that this be made a part of the present title V approach.

Mr. Gardner. I would recommend that, giving it identity as Indian information.

Mr. Deloria. I don't know how many regional commissions there are.

Mr. Gardner. Seven.

Mr. Deloria. Seven regional commissions. I know Congress in the most recent amendments to the act just authorized one or two more. Would you recommend, then, that there be a single title V commission serving all the tribes in the country, or would you recommend that more than one regional commission for Indian tribes be established?

Mr. Gardner. There would have to be more than one because of the regional concept. I think the regional categories that we have set the boundaries to include those tribes that would be affected.

Mr. Deloria. So that in addition to transferring the Bureau of Indian Affairs to the Executive Office of the President, you would recommend, as a way of bringing other Federal money to bear on Indian tribal problems, an amendment to title V creating regional commissions for Indian tribes?

Mr. Gardner. I feel this is necessary in order to have the authority on how these moneys are being spent because the regional commission concept is that these projects are not funded unless they are approved by the commission members.

Mr. Deloria. I know your time is limited and you have many things to do as chief of the Choctaw Nation, but I wonder if you might have the opportunity sometime to lay out that idea in somewhat more detail, since you have had experience working with regional commissions you would know how these could be structured and implemented. Could you do that for us?

Mr. Gardner. I would be happy to.

Any other questions?

Commissioner Deer. I would like to hear more about the tribal water rights. Oklahoma doesn't have reservations, but you do have Bureau offices. What is the responsibility of the Bureau to water and to land?

Mr. Gardner. I think they have the ultimate responsibility. I have recently requested, in the past 2 weeks, that the Department of Interior provide us the definition as to what obligations or what trust responsibilities they owe the tribe. We are aware that these are our properties, talking about water rights. I do not know if the Bureau is aware. They have not made any attempts to say this is what the tribe must do in order to be compensated for the waters to be taken within the boundaries.

Does this answer your question?

Commissioner Deer. It sounds to me like this is very unclear, that the Bureau is not fulfilling their obligations to protect the water rights there.

Mr. Gardner. I think the Bureau is allowing the State to assume authorities they do not have in that in the present setup the State is making plans or establishing plans that they must be approached in order to receive whatever a local unit of government would have with regards to water rights. I do not think the State has this authority. We have fee simple title to all the lands. It did not say "excluding water rights." So we do not have to petition the State for our water rights. We already have it. We want the Bureau to work with us and say, "Here is the water you want to buy and this is a reasonable rate that you will pay."

Chairman ABOUREZK. Dave, that is excellent testimony. I hope you will elaborate as Sam Deloria has asked.

Thank you very much.

The next witness is Ted Torro.

We welcome you to the Commission hearings.

STATEMENT OF THEODORE P. TORRO, CHAIRMAN, TORRES-MARTINEZ BANDS

Mr. TORRO. Thank you.

I am Theodore P. Torro, chairman of the Torres-Martinez Bands of Mission Indians of Southern California. We are a small band of desert Cahuilla Indians who have resided for hundreds of years in the desert area known as the Coachella Valley of extreme Southern California.

It is an honor for me to come before this high congressional commission to place before you some of the experiences and problems which have kept us, as desert Cahuilla Indians, from developing what is otherwise a very rich land base.

Our reservation consists of 27,000 acres, much of which is fertile agricultural land, lying some 50 feet below sea level in the Coachella Valley.

I would like to make one point here, that we favor an independent agency for the Bureau of Indian Affairs, with stronger technical capability at the local level for the following reasons:

The purpose of my being here to testify is extremely important for you to understand. Our band, which consists of 66 people living on our reservation, and 215 formally enrolled people (with an estimated 600 or more actual living members of the tribe) is isolated geographically and by climate from virtually any contact with the Federal agencies including the Bureau of Indian Affairs.

This isolation has resulted in a situation in which we are seldom visited or recognized by either the trustee or by even national or regional Indian groups. As a result of this situation our priorities, our problems, our needs, and our very daily life is very severely affected. To be here in Denver is a very important occasion in the history of the Torres-Martinez Bands.

We have not always been ignored; for example, the Los Angeles Sunday Times wrote a major feature article about Torres-Martinez and stated:

> Once many years ago the Indians farmed this land the Government assigned to them and they lived well. The Government had put down some wells which flowed freely without pumping. About 10 years ago the wells stopped flowing, the water level having sunk. The Government put in pumps. In the meantime, however, with the water supply growing smaller and smaller the crop yield fell off and the Indians' revenue fell off with it.

It is interesting that this article was printed Sunday morning, March 8, 1925, exactly 51 years ago today.

The recognition by the Federal Government that this arid but highly fertile land is a very valuable asset has been the subject of correspondence throughout the history of the Bureau of Indian Affairs dating from the early 1900's and culminating with the passage by the 85th Congress of Public Law 85–801 on August 28, 1958. This act provided for the construction by the Bureau of Reclamation of an irrigation distribution system and drainage works for Indian lands within the Coachella Valley County Water District in Riverside County, Calif., specifically for the members of the Augustine, Cabazon, and Torres-Martinez Bands. Until we were visited at Torres-Martinez by Mr. Peterson and Mr. Tonasket of this Commission and until Mr. Peterson's subsequent investigation revealed the existence of this act, I had never known, even though I had been chairman for 8 years, that this act providing for a complete irrigation distribution system to irrigate approximately 7,000 acres—I repeat, 7,000 acres—of the most fertile land in America even existed. Needless to say, it has never been built.

The purpose for relating in some detail this situation and for appending to this testimony copies of the transmittal of this 1958 act to us by simple memorandum from the Bureau of Indian Affairs in 1958 and the copies of letters dating from the early 1900's and including the March 8, 1925, Los Angeles Times article is to show this Commission as clearly as possible that we are so isolated from the diligent and sincere participation of the Bureau of Indian Affairs.

During the last 8 to 10 years no one had been interested in us until members of the staff of this Commission came to our reservation and subsequently conducted a brief investigation. Now we know we have one of the most potentially productive reservations in the Southwest United States. But how do we proceed?

I now continue with the summary of issues which I hope you will feel free to ask questions of me. The issues which I hope that we are able to discuss today and which seriously affect us are as follows:

1. We are very interested in pursuing the follow through and development of the irrigation project provided for in Public Law 85–801.

2. We are extremely concerned about the lack of health care and health facilities available to us at Torres-Martinez. When people at Torres-Martinez have a serious illness they must go to Riverside County Hospital in Riverside, Calif., approximately 95 miles north of the reservation. The reason for this is that we have no access to or assistance from the Indian Health Service for health care. The local hospital in Indio, and other local health facilities require prepayment for even emergencies before any of our tribal members can receive care.

In situations involving aged or seriously ill members, we must take them to Parker or Phoenix, Ariz., or approximately 150 miles north to Long Beach, Calif., for access to either hospitalization or health care.

This situation, we recognize, is not one which can be solved by only the Bureau of Indian Affairs. We do feel, however, that the

Bureau of Indian Affairs should be taking an active role in helping provide us with better access to health care.

3. We have a difficult time with transportation in getting people to doctors, dentists, and to emergency care or even to the California Rural Indian Health Service Clinic located in Morongo, Calif., some 45 miles north of Torres-Martinez.

4. We are concerned that with the exception of when members of this Commission staff came to Torres-Martinez, we are very seldom visited in any constructive sense by the Bureau of Indian Affairs. It is true that we do not beg for the Bureau's assistance, but it is also obvious that the reason that we don't ask is that we have been so long ignored.

5. This is of great concern to us—the delivery of education programs and/or systems to us and the lack of participation of the Bureau in assisting us in communicating with the local school districts, and in assisting us with documenting the number of Indians actually living in our school district in Riverside, Calif., as compared to the numbers who are enrolled members in our tribe. The importance of this course is to get the maximum amount of title IV Indian Education Act of 1972 impact funds so that our children can be given a more adequate education in the local schools.

6. This is an immediate need because of our high unemployment and lack of recreational facilities is the frustration of our 3-year effort to get Torres-Martinez Agency School and Agency Headquarters restored as a regional historic site, park and recreational area. We have exhausted our resources in this effort and have formally requested the Bureau, and the American Bicentennial Commission to assist us to no avail.

This site was declared a Riverside County Historic Site in 1970 with the placing of a bronze plaque there by the Riverside County Historical Commission. In 1973 it was declared a national historic place.

Again, our remote location seems to work against us. I have attached newspaper articles and letters to this testimony documenting this effort. If there is anything you can do to assist us we would sincerely appreciate it.

Finally, before responding to questions from this high Commission, I would like to emphasize that we are fully aware that our appearance before this congressional Commission is a very unusual and historic circumstance for the Torres-Martinez Bands. Our isolation has prevented us from adequately communicating our problems and our needs to the outside world. And because we are seldom visited by any Federal official or any congressional person we are thankful that you have given us this time.

I invite you to ask any questions you may have of on behalf of the Torres-Martinez people for allowing its staff members to spend the time that they have with us in bringing our problems and our opportunities out from the shadows and into the sunlight.

Chairman Abourezk. A very good statement, Ted. Thank you very much.

Are there any questions?

Mr. Tonasket. I must say that I am very glad to see you here. It was quite an experience for myself and Mr. Peterson to come out to your reservation and to see the circumstances that your people are living under.

I missed the first part of the testimony. Did you tell the Commission how far away the agency office is from you?

Mr. TORRO. Yes; we have.

Mr. TONASKET. Did you say in your document about the number of times that the BIA staff has visited your reservation?

Mr. TORRO. No, I haven't.

Mr. TONASKET. Would you give that to us?

Mr. TORRO. As long as I have been chairman, and since the area director, who is Mr. William Finelle, when I first took office, and that was in the year of 1966, was the only time he ever came out. Up to now he has never been there. Our local agency area superintendent has never been to our reservation. The only officials from the BIA office that come to visit us is at the request of the tribe that was dealing with Mr. Marco, who is with the HUD housing program. We needed new housing for our Indian people there on our reservation, and Mr. William G. O'Nally, who is with the Land Realty Office at Riverside at our request have come to our reservation. And also helping us with our trying to get some type of development for our reservation, Mr. William Dietrich, who is the land planning officer there in Riverside.

I would like to comment on one thing here about Mr. Dietrich. People don't understand what I was talking about in the historical site is that in 1905 the Bureau of Indian Affairs built an agency there with a schoolhouse, agency, and living quarters which used to be the local agency office there, and that building was turned over to the tribe and it is still standing. With the efforts of the Riverside County Historical Commission we got it placed as a historical site.

We worked on further and got a place on the National Register of Historic Places, and that is where it stands right now. The tribe is wanting to make it into a tourist attraction where we would give members of our tribe jobs for living expenses to better their conditions.

Chairman ABOUREZK. Sounds like the area director and the superintendent are very busy and are unable to get out to your reservation because of that, do you suppose?

Mr. TORRO. I believe it is because it is too hot. It gets a hundred degrees down there.

Commissioner BORBRIDGE. They can't stand the heat.

Mr. TONASKET. Usually that is the way it is for any area director to go to a reservation, it always gets too hot.

Mr. TORRO. Another thing I would like to comment on, is that our reservation, our children there this year, or for the last, I would have to say for the last 3 years, we have never got an education program with the exception of Johnson-O'Malley which was started about 2 years ago. This year was the first time we were involved in the title IV program, and the amount of money we got was only $2,400 for a whole year's program, and that wasn't adequate.

The instructors that we had, the two women that we hired to teach the children craft work and study our language only received $125 for 3 months' work for a total of, I think, $750 for the whole year.

The two towns next to us there received this year a total of $35,000. We only got $2,400. We can't understand how they could when we had a good program on our reservation, and most of the work has been done by volunteer work.

We did not follow the procedures of the application because they wanted us to start our classes at least once or twice a month, but with the help of the people that we hired they donated all their time to help the children. We had our classes every weekend for every month, and they had to travel a little over, I would say, 45 miles to get there to help our children. They didn't complain about how much less money they got for them to come out to our reservation.

If these people can do that, I feel that the Bureau of Indian Affairs people can come out that way and visit us, as they get paid a higher salary than the people that are volunteering their service to our reservation.

Mr. TONASKET. Has the Bureau ever provided your tribe with higher education assistance for your people like they do in many other tribes?

Mr. TORRO. No; they haven't.

Mr. TONASKET. Have they ever notified you or let you know that there is this service and responsibility?

Mr. TORRO. The only way they do that, they just send out letters saying there is vocational training and jobs available and that is all. They never follow up with anything else.

Mr. TONASKET. Does the agency or the area office down there keep your tribe informed of programs that are available to tribes in this country? I know many tribes get stacks and stacks of correspondence telling them what is available and how to proceed to get program moneys.

Mr. TORRO. No; I can answer those questions separately. No; we do not get information from them on how to proceed and how to get funds, how to get higher education, stuff like that. All we get is just a letter saying these programs are available and that is all—no applications, nobody to contact, that is all.

Mr. TONASKET. Have you put any thought into what we could recommend as a Commission to change the Bureau in your area or your agency to better service your people—maybe a subagency or an agency out in your part of the country?

Mr. TORRO. Whatever direction they go, up or down, sideways, I hope that they keep our land in trust and not terminate us. That is all I can say. But we would like to know more about how they work and how they would be able to help us there.

Mr. TONASKET. Would you like to have an agency out at your reservation?

Mr. TORRO. If they can stand the heat; yes.

Mr. GOETTING. You live there, don't you?

Mr. TORRO. No; I live in Hemet. [Laughter.] I live approximately 75 miles from our reservation. I go down there every time I can and I go on my own.

One thing I would like to make clear here, that as long as I have been chairman, for 8 years, I have not received any travel, any pay from my reservation because I feel I don't deserve this because I don't want to take things from my people that they don't have. And all my committee, which consists of seven other members, are all volunteer people. They are elected every 2 years, they hold office every 2 years, and will be replaced every 2 years.

Mr. TONASKET. Let me go ahead, but I want to make one statement. From our personal visit down to Torres-Martinez I want to assure you that by asking if you lived there or you being in a position where you have to say that you don't was not—you know, we don't want to make you feel that you should be embarrassed to answer, "No, I don't live there." I would like to tell the Commission the reservation, when it was established, was originally, and still is, a checkerboarded reservation, one section Indian and one section white. The area that is available for housing is just not there. I can vouch that it is very difficult to make housing available in the situation as it is there.

I just wanted to make that clear to the Commission.

Chairman ABOUREZK. He must be doing something right if he has been chairman for 7 years. A lot of politicians have found out if they never go back to their home State they can't hope to keep getting reelected.

Mr. GOETTING. Ted, in terms of the description of the reservation—where you say that an irrigation project for 7,000 acres has been authorized but never funded, never constructed: What about the checkerboard portion of the non-Indians? Are they irrigating their lands? Are they providing income for their people on their land right next door and intermingled in your lands?

Mr. TORRO. OK. What used to be tribal land—each member of the tribe was given 40 acres of land allotment and those were sold. Then when the farmers bought that they developed that into citrus, vegetables, and this type of stuff. It is an income for them, not for the tribe. And then over here they have water, they have irrigation, all this type of systems for their property. Where that ends and the reservation starts, there is no type of development, no water available at all.

Mr. GOETTING. What kind of a living do the non-Indian people make on those same lands that are interspersed right in the Indian lands? What kind of an income do they have? Do they make a fairly good living out of it?

Mr. TORRO. They sure do. I couldn't give you a figure because I don't know.

Chairman ABOUREZK. Do they irrigate?

Mr. TORRO. Yes; they do.

Chairman ABOUREZK. Where do they get the water?

Mr. TORRO. They get the water from the Coachella Valley Water District.

Chairman ABOUREZK. Can the Indians join that district?

Mr. TORRO. They are part of that district; yes.

Chairman ABOUREZK. But can they get water from it if they want?

Mr. TORRO. Yes; they can.

Chairman ABOUREZK. Why don't they?

Mr. TORRO. Well, you see, our people are not farmers. For one thing, I have got to explain the reservation there has individual wells. We don't have a water system like they do here in the city. Each member that is living there on the reservation has their own individual well.

Chairman ABOUREZK. I am talking about irrigating. Why don't the Indians irrigate?

Mr. Torro. Well, for one thing, they don't have the money to develop their land because the land is brushy, and needs a lot of clearing. They have no money to get this type of irrigation.

Mr. Goetting. But this is a part of the program of an irrigation district, isn't it, to prepare the land suitable for irrigation to provide water ditches, canals, head structures to release the water, isn't some of that available already?

Mr. Torro. No; because we did not know about this until just recently when the investigation by Mr. Peterson was brought out. Even I, as chairman, did not know then that this was available to the members of the tribe.

Mr. Goetting. But it is available. What kind of an application would you have to make? Isn't some of the financing available for it even under the authorization of the project?

Mr. Torro. I think there is, but we have never seen an application. Nobody has ever contacted us from the Bureau again to say this is available and what procedure we are supposed to take.

Mr. Tonasket. May I make just one statement to help clarify the situation down there. The act that authorized the irrigation district authorized the irrigation of Indian lands, too, but the Bureau failed to follow up and assist the tribe in that. Everything is there except that the Bureau, even to this date, I guess, even since we have been down there hasn't contacted the tribe to let them know what services are available as authorized under the act.

Chairman Abourezk. Have you read the act, Mel?

Mr. Tonasket. No.

Mr. Torro. The act is included in my testimony.

Chairman Abourezk. Jack, can you speak to that? What does the act provide for financial assistance to get the land ready for use?

Mr. Peterson. The act was passed and authorized the Indian portion of the project, which is the Coachella Valley County water district irrigation project. The appropriation to go with the act for the Torres-Martinez portion was not passed nor was it asked to be passed by anyone. In other words, an appropriation bill was never presented to Congress.

Chairman Abourezk. The appropriation was for preparing the land for irrigation?

Mr. Peterson. The appropriation was for preparing the land and for doing everything to deliver water to every 40 acres on Torres-Martinez. The engineering has been done, for example, for the project under the act. The engineering, the soil surveys, the water is available, and the existing facilities that are built up to the reservation boundaries—the checkerboarded sections—the hydraulics are built into the present system and it has the capacity to deliver to the additional Indian lands. That is how far it has gone.

Chairman Abourezk. Is this something the BIA should include in their budget, or should it be a separate appropriation?

Mr. Peterson. My personal feeling is that it should be a separate rider on a bill—separate appropriation for Torres-Martinez. It could, however, be included.

Chairman Abourezk. It could be included in the BIA?

Mr. PETERSON. The present legislation—and we have copies of it here that should be in your packets there—could be a separate bill or could be included by the BIA.

Chairman ABOUREZK. Assuming that all of that were done, Ted, and you got the money and the land cleared, and so on: Would your people use that irrigation for farming? You said they weren't farmers.

Mr. TORRO. No, I don't believe they would, with the exception there might be a few. What they would do: They would probably lease their land to a developer because our members now are quite up in their years and none of them would be able to become farmers.

Chairman ABOUREZK. There isn't much use in going through all that expense and trouble if they are not going to use it themselves, then, is there?

Mr. TORRO. Well, they could use it because of the income they could derive from it and have a better way of living.

Mr. TONASKET. Maybe I can help out.

Jack, you got the report from the irrigation district on the income derived from the lands that are irrigated. Could you just tell the Commission the value of that, and is it not true that some of the non-Indian landowners do not farm their own land but through the lease process also make a very good income?

Mr. PETERSON. That is true.

Mr. TONASKET. Is a lease assistance service available to the tribes by the irrigation district so that they can get a fair and equitable deal?

Mr. PETERSON. Very, very quickly, yes; that is true. The method of farming in the Coachella Valley of California is as follows: The formerly relatively small land units are now very large corporate farms off the reservation. The corporate owners, whether a tightly held small corporation or a public corporation, the farm lands are managed by professional farm management firms in the great majority of the cases almost entirely, and the owners are absentee stockholders or a family that has moved out of the valley.

These farm management corporations and the lease arrangements that these large corporate farms have, since they don't own all of their own land, too, results in very high income for the shareholders, and for the private owners. So the income derived—and we have the documentation from the Coachella Valley County Water District's crop records—is the highest per acre income or gross product of any agricultural land in the continental United States, including the Imperial Valley.

So the lease arrangement that Mr. Torro suggests is one that is not the traditional Indian lease arrangement—where Indians get nothing—but an equitable lease arrangement—probably with a management firm—that would result in substantial income for the Torres-Martinez.

Chairman ABOUREZK. That is a different matter. You are right.

Commissioner DEER. I would like to ask you: Is your tribal council involved with the Bureau of Indian Affairs in developing your budget?

Mr. TORRO. With our tribal budget? No; we develop our own tribal budget and we present it to the Bureau. They write back and they accept it and it has been approved.

Commissioner Deer. There has been a lot of consultation or discussion here about band analysis.

Mr. Deloria. He is talking about their budget. He didn't understand your question.

She means the Bureau's budget, the agency budget.

Mr. Torro. The only thing involved, they do send us out a band analysis. They don't give us any figures on what it is or what we want to do. They just say, "What priorities do you need on your reservation?" Like, for instance, I think 4 years ago we put in for reconstruction on our roads. We put an estimate of $50,000, but that wasn't an accurate estimate because we don't know how much it would cost to improve the road system there. That was 4 year ago, and up until now they have never fixed our roads.

Again, just recently, before I left to come up here, they had a meeting in Escondido to work on the band analysis again, and what they were including I don't know.

Mr. Deloria. Chairman Torro, what is the enrollment, the total membership of the tribe?

Mr. Torro. The total enrollment? It is hard to say because in 1945 they stopped enrolling members of our tribe. At that time there were 250 on the Bureau roll. It is almost 16 years now since we had an enrollment. The Bureau has never hleped us to try to improve. The only thing they took part in is when the $29 million judgment was distributed in California. Again, that was an inaccurate roll for our members.

Mr. Deloria. Do you know why they stopped keeping track of enrolled members?

Mr. Torro. No; I don't know.

Mr. Deloria. Do many tribal members live near the reservation?

Mr. Torro. Yes; they do. They live near other reservations, also. A lot of them want to come back but there are no jobs, and no housing available.

Mr. Deloria. Are there any tribal members living on the reservation?

Mr. Torro. Yes. There is a total of 20 families that are living there now on the reservation.

Mr. Deloria. Are there other tribes nearby?

Mr. Torro. Yes; there is the Cabazon Reservation and the Augustine Reservation.

Mr. Deloria. How close are they?

Mr. Torro. They are about 11 miles away from our reservation.

Mr. Goetting. Are they in the same condition economically as you?

Mr. Torro. Yes: they are.

Mr. Goetting. Do they have the same type of experience relationship with the BIA that you have had?

Mr. Torro. I can't answer that because I don't know. We are not that close in dealings with their tribal business.

Mr. Deloria. I know you are quite busy doing all this volunteer work for the tribe, but could you take a few moments and talk into one of your cassettes for about half an hour for the task force and list the Federal programs the tribe is getting the benefit from now, if any? It probably wouldn't take too long.

Mr. Torro. I can answer that one question. There are no Federal programs that we are involved in as of now.

Mr. Deloria. You are administering no programs whatsoever?

Mr. Torro. No. Is that half an hour over with?

Mr. Deloria. Take the rest of the half hour off.

Chairman Abourezk. Ted, thank you very much. It has been a very good presentation.

Mr. Torro. Thank you. I would like to state one thing here to you people. It was an article written on March 2, 1956, by Mr. Bill Jennings, who used to work with the Riverside Daily Enterprise, and there is one statement here, the heading on this paper that I think all of you people, the Commissioners, the task force, and any Senators or Congressmen here should take note of this, because this little thing here, this little sentence really affects us very bad. It states here, "The name isn't familar now, but a President once knew it." This was given to us on July 4, 1924, by President Calvin Coolidge, commending our Indian people that had served in the war. You figure back, that name, a President once knew it. I have been chairman for my tribe for 8 years and I have seen three Commissioners of Indian Affairs that have never visited us, have never talked ot us, and these three people are the former Mr. Robert Bennett, Mr. Louis Bruce, and now the existing Mr. Thompson.

I feel this one sentence tells everything. I want to thank Mr. Peterson and Mr. Tonasket who came out to our reservation to see what it was like. I want to make it known here that if any of you are ever through that area you are welcome to stop by. Please don't make it over that long a period of time.

Chairman Abourezk. When is the best period of the year to go there?

Mr. Torro. Any time. Thank you.

Chairman Abourezk. Thank you, Ted.

The next witness is Anthony Largo of Santa Rosa.

STATEMENT OF ANTHONY LARGO, CHAIRMAN, SANTA ROSA BAND

Mr. Largo. Good morning. Thank you for the opportunity of being here. My name is Anthony Largo. I am the chairman of the Santa Rosa Band of Mission Indians.

I would like to say that Ted and his problems are pretty relevant to most of us in Riverside County. While he is in a desert community, we are in the mountain regions of southern California and pretty isolated. In my testimony that has been submitted we have touched on a few problems that we have that are particular to us as far as communications, economic development, and housing problems, and some of the range programs that we are trying to implement in order to get ourselves somewhat of an economic base for things that we are looking for in the future.

In our attempt to obtain communication on the reservation we have submitted at least three programs and each of them have been denied. Now what we are looking for is a phone system, something that we can communicate. All we need to do is communicate effectively with the Bureau of Indian Affairs in those areas that we conduct our everyday business. The Bureau of Indian Affairs has seen fit not to assist us in this program, mainly because money is not allocated for that type of program.

Another program that they have refused to help us with is the development of a cultural center, again not even offering the assistance of an architect. Most of these programs we take on as a tribe and use our own resources and have been able to accomplish a few changes on the reservation, but for the most part, as far as the development of the range, reclaiming some land and developing a dam for an irrigation system, the requests have gone unanswered.

Without these kinds of programs we will remain as we are now, which is we are a nonproductive area as far as the land is concerned because we can't develop it. We are over a productive watershed and probably could have some good returns with a little bit of money invested into a well system and an irrigation system if we were allowed to develop our programs.

Chairman ABOUREZK. Tony, have you asked the BIA for assistance in these matters?

Mr. LARGO. Yes.

Chairman ABOUREZK. And you have received what: No response, or a negative response?

Mr. LARGO. In some cases no response, and in other cases negative response. Whatever little development we have now on the reservation has been through the attempts of various tribal spokesmen to utilize other Federal agencies to obtain funds or to obtain assistance. So it hasn't been directly through the Bureau that we are able to achieve things.

Another plus for us was that we had in 1950 a timber sale that established a treasury account for us, and through the tribal budget process we were able to make some achievements. The first being a community hall, and that enhanced life on the reservation again. We implemented a domestic water system on a matching grant basis with Indian Health Service on that particular project. We set aside money for 11 new bathrooms for each of the houses in Santa Rosa, and our first community or first home improvement program was on a tribal budget basis, from the tribal resources, not through the Bureau. We had approached the Bureau at that time and asked them to match the amount of money that we were putting up. We put up $8,000 at that time and the Bureau saw fit to put up $5,000. Since that time we have been able to continue with our home improvement program through Bureau sources.

Probably the main accomplishment that we are looking for right now is to be able to get that phone system in and get that out of our way. Then we would be able to work with other agencies and develop the irrigation program. We are doing a little bit of study on the reservation and finding out that we have at least right now 1,300 acres of potential farm land which would, again, not be, without the services of water, of much worth to us.

The dam that was put in was put in in the early 1930's, I think just when the OPT program was in operation and many of the people that lived on the reservation actually built the dam, said at that time there was no consideration given to flooding in the area. The dam filled with silt and ruined a large portion of farmland. We are looking to remove the silt, reclaim the farmland and probably rebuild that dam to a level where we could store water, then pump water out of it onto the land so it would be available to us.

We have three checkerboarded sections within our reservation and we do have some land access problems there as far as being remote. Our section 36, or the farthest section from our reservation, has developed a microwave station. While it was a useless piece of land on the reservation, it became useful to other people, such as the Army Corps of Engineers, Bureau of Land Management, Southern California Gas, and Western Telecommunications relayed telegraph and telephone messages across the Nation. We find it a little bit ironic that we can't establish a phone system on our reservation.

In the testimony there is a copy of an article that was written only recently, and it goes into pretty much detail on the problems that we are having.

Again, the testimony covers a few of the areas that we are having problems in. If you would have any questions at this time I will make an attempt to answer them.

Chairman ABOUREZK. Any questions?

Mr. DELORIA. Chairman Largo, have you been given a reason why you can't get telephone service?

Mr. LARGO. Our first approach to the Bureau was that they just didn't have that type of money available, it was not a programed item, and we left it at that. But the more we kept attempting to achieve this program and the more we were being told no, we couldn't have it or the money wasn't available, I think we got a little bit stubborn, too. We kept wanting to look for the agency that could fund us that program.

The easy solution would be to take this out of our tribal resources—just to put in the line. I think it is going to cost about $3,500 at this point just to bring the line into the reservation. The line is just about 3.5 miles from the reservation and we can't get it extended into the reservation. Of course, this is creating a problem in that those people—we have 22 residents on the reservation, and each and every day for them it is bad, especially during the wintertime. Without that kind of communication, even to me, and I live in Hemet, I don't live on the reservation at this time, I need to know what is going on on that reservation in the wintertime and I can't get in. If they can't convey to me what they need I can't service those people. Many times I am able, if they can get a message to me, I can usually get a message to the Bureau, and we try to get some assistance that way.

They have been assisting us in grading the road, at least clearing the snow out so we could get food in to the reservation.

Mr. DELORIA. Have you been referred to the Rural Telephone Bank program and the Rural Electrification Administration?

Mr. LARGO. I haven't been referred to them. I looked into it on my own through a number of sources. I just happened to go through a number of things and that is one of them I looked into.

Mr. DELORIA. What is the problem on that?

Mr. LARGO. It is going to be up to me at this time to move on it.

Mr. DELORIA. It is just a matter of getting the resources to fill out on a form?

Mr. LARGO. I don't think that is going to be so much of a problem as whether or not that is going to be the right way to go about it. Some of the people are feeling that this should be something that the Bureau should work with and are leaning toward that direction. I tend to think that any agency that can help us is the agency to work with.

Mr. DELORIA. Does the tribe have a source of income?

Mr. LARGO. As I mentioned earlier, the section 36 is currently under lease to four agencies and they pay $1,800 a year.

Mr. DELORIA. Do you receive any grants, administrative grants, or any Federal program?

Mr. LARGO. The HIP program.

Mr. DELORIA. The HIP program, that is all?

Mr. LARGO. That is the only program of any consequence. Of course, we also have a youth work-learn program. That is a Bureau program. We recently picked up a $2,500 grant on that. We also picked up earlier in the year a $2,500 grant for tribal operations, but that is something we program every year into our own tribal budget. At that time we thought we could use that money to bring in a phone line. We were told at that time by Mr. Tom May, who is our area superintendent, that the money was not meant for construction and couldn't be used in that manner.

Mr. DELORIA. How many tribal members do you have?

Mr. LARGO. We have 75.

Mr. DELORIA. How much land?

Mr. LARGO. 11,000 acres, a little over 11,000.

Mr. DELORIA. Would you happen to know how the Bureau of Indian Affairs' employees in California do spend their time?

Chairman ABOUREZK. Just like employees anywhere else.

Mr. LARGO. Again, like Ted had stated to you earlier, very few of the people get out to the reservation, and those that do usually call it a field day, you know, they just want to get out of the office for awhile. Nothing really constructive is ever done by their visit, with the exception of those people that you might be wanting to work a program with. Mr. Dietrich has been helpful. Mr. Marcove does make a visit once in awhile. Those are really the only people that we have contact with, other than having to travel into the Bureau itself or the area agency or traveling into Sacramento for denials of programs.

Mr. DELORIA. Even if the Bureau of Indian Affairs is made an independent agency or a cabinet department, or whatever, that is still not going to automatically solve the problems of the smaller tribes?

Mr. LARGO. Not unless they are responsive to the needs.

Mr. DELORIA. Would you have any specific suggestions? I would ask Chairman Torro to respond to this, too. How could the small tribes in California be served better? Do you have any structural recommendations for delivering services?

Mr. LARGO. I would hope that this Commission would come up with some recommendations for that. The thing that I think most of the small tribes fear, any time you start removing some physical contact with the Bureau, the outcry of termination immediately goes up. If you could remove that agency without that outcry, without that fear from the smaller tribes, fine, well and good. But the agency that you are replacing needs to be more responsive, needs to respond immediately.

Chairman ABOUREZK. I would like to ask a question. Where does the outcry of termination come from, the area director's office?

Mr. Largo. Oh, I think you hear it from some of the reservations that have chosen to maintain as they have always maintained.

Chairman Abourezk. Is it possible it originates from the area director's office?

Mr. Largo. It is possible, sure it is, but I deal with a number of reservations, especially within Riverside and, of course, throughout the State, but I hear the talk coming from the people and not so much from the area personnel. Of course, then again it is a rare occasion when we do have a chance to deal with top level people.

Mr. Deloria. Are there other tribes near yours?

Mr. Largo. Sure, we have one just about 9 miles from us, and, of course, Ted is just down the hill from us.

Mr. Deloria. So it is not really a problem that you are so scattered out it would be impossible to serve you?

Mr. Largo. Well, there are a few miles between us but it is not impossible to service the area. In fact, the tribal leaders looked at the idea of trying to unite in order to get better services, and for some reason or another the idea is somewhat dormant right now. We are looking at maybe some type of association.

I think one idea that developed was: They would rather see a Federal commission situation develop out of it rather than a tribal chairman's association or something similar to that.

Mr. Deloria. So Chief Gardner's suggestion of amending the regional commission or creating a regional commission might be helpful to you?

Mr. Largo. Well, you know, we do work with the Regional Commission in San Francisco. I travel to meetings there occasionally. Again, it is an opportunity to see the agencies that work together, and yet very few of the reservations in California are being serviced by that Commission.

I think one of the problems is that the tribes do not know how to work with that Commission, what it is for or any of its structure, let alone the Bureau structure. If they could become aware of what their programs are I am sure they would find a way to use that.

Mr. Deloria. Do you receive technical assistance from anyone?

Mr. Largo. From whoever we request it of. We are working with the Inter-Tribal Council of California, and there are other agencies that do have that available to us. I am a technical-assistance person for some tribes in the area as well, currently working now for the Inter-Tribal Council.

Mr. Goetting. I notice here in one of the items you have in your presentation, the fifth one, says when you even try to make a meager living that you are required to submit an environmental study of the effect it has on the original land condition. Is this why some of the programs of developing an economical source of income is denied?

Mr. Largo. Well, not only that, not only as far as economics is concerned, but even housing programs and the irrigation program would be one that would be subject to that kind of program, yes. We are being told that any time Federal dollars are spent that these are the studies that we are going to have to come up with.

Mr. Deloria. Who told you that?

Mr. Largo. Those program officers that are handling that program at the time.

Mr. Deloria. Who pays for the stuff?

Mr. Largo. This was our question. We were told again by these program officers, that the money would have to come out of the program itself.

I mentioned in the little statement I submitted that our range program—it is a small program, we are only looking at clearing 800 acres, but we had to have a survey done on that acreage: the idea was with a backup program the following year. So it took us 3 years from the talking stage to now, which still hasn't been done, we are just going into the survey now, but it is 3 years in that program before anything was developed that was definite, and this was the last steppingstone here, the environmental statement. That took $1,600 away from the program in order to do that study.

Mr. Deloria. Do you receive the offer of assistance from the Bureau of Indian Affairs in doing the impact statement?

Mr. Largo. Well, the only thing they do is coordinate it, in that they have to go out and look for an agency or a survey team to do that study.

Commissioner Deer. You have mentioned the lack of services and the denial. Do you have any written communications from the Bureau giving their reasons for this that you could submit to us here?

Mr. Largo. I don't have them with me now. This is something I could submit at a later time. Written communication from the Bureau is very hard to get. As a matter of fact, the $2,500 grant I spoke of earlier for tribal operations, we were applying to have the whole amount of money transferred so that we could work with it easier and submitted a resolution to that effect, and we had no reply. So we might follow up in a phone conversation.

I talked to the administrative assistant and she at that time told me the money could not be handled in that manner. So I asked her to send back our resolution with that statement so that I could present this to our council. She told me at that time she would prefer to keep it on file. But that is what I was going to have to tell our council, that in our conversation we were being denied assistance.

Mr. Deloria. Has the Bureau also stopped enrolling your members?

Mr. Largo. We haven't had an enrollment in some years now. That is quite a ways back.

Mr. Goetting. Why is that, do you know?

Mr. Largo. No, I don't. I would imagine that if we petitioned and asked for an enrollment it would probably be opened up again. As I understand, there is money involved in this type of situation. If they don't have it, they are sure not going to do it.

Mr. Goetting. So just by obvious lack of communication in finding out all this stuff, that the Bureau, you feel, is just paying their own salaries and neglecting any of the services that are supposed to be rendered, they are not even maintaining the average actual current day-by-day requirements of trust status, the trust delivery of responsibility?

Mr. Largo. That is true. They also take on the attitude that there are so many reservations in the counties, especially in the area agency where they do service it, it is almost impossible, they say, to service those people. As a result, we are always pulled into a central location for all of our meetings and never get that personal contact that in so many cases pays off.

Mr. GOETTING. Eventually, if they didn't record any membership, it would just terminate the tribe by inaction?

Mr. LARGO. Yes; that could happen, yes, sir. I don't foresee any of the tribes ever letting that happen, though.

Mr. GOETTING. I hope not.

Mr. TONASKET. There are a lot of reservations. I get some of them confused. Is your reservation one of them that needed boundary surveys done?

Mr. LARGO. Yes; that is true.

Mr. TONASKET. Have you requested the Bureau of Indian Affairs to survey your reservation boundaries?

Mr. LARGO. Absolutely. I can say those in Riverside have requested that.

Mr. TONASKET. What has been the response?

Mr. LARGO. Negative. It is, again, because of the money situation.

Mr. TONASKET. Do you know what the agency budget is?

Mr. LARGO. No.

Mr. TONASKET. Have you requested that information?

Mr. LARGO. I think there have been several that have requested that. I have not personally, but I am hearing that this is currently going on, people are looking closer, other tribal spokesmen are looking closer at what is going on.

Mr. TONASKET. How many years ago did you first request surveying done?

Mr. LARGO. As far back as I can remember. But then, like in the 1930's, I am pretty sure this was going on, because the CCC program, part of that program was to fence those boundaries. I think that was maybe the initial request and ever since then we have been making requests. We are concerned with our checkerboard, we are really not too familiar with their boundaries, and the one that is making us money is the one we want to protect at all costs.

There is a piece of private land and forestry land we have to travel through to get to that particular piece of land.

Mr. TONASKET. National Forest?

Mr. LARGO. Yes. There is no guarantee that we can ever maintain the right to travel through that, that private land, at least. So it is imperative that we do have these checkboarded sections surveyed.

Mr. DELORIA. Mr. Largo, I know the tribes don't begrudge services that are going to other tribes, but could you clear up something for us? Is there some tribe in southern California that is getting a lot of services from the Bureau? Is this a problem of somebody is getting all the actions and others are left out, or are all tribes served by this agency being treated the same?

Mr. LARGO. I would think that they are all being treated the same. I would like to think that. From what I am able to see, I think it is true that they are all being treated the same. But, again, I say the ability of the tribal spokesmen to reach out to other agencies to obtain programs is what is helping the individual reservation. Those reservations that are able to develop OEDP's and comprehensive land use plans and become recognized by the Economic Development Administration, these are the reservations that are receiving programs now. They are receiving—well, you can't call them gymnasiums—some type of cultural activity hall, tribal business offices. Even parks and recreation are being afforded these reservations. But, you see, they have developed this documentation. That is pretty much on an individual basis, how that reservation chooses or wishes to show its attitude toward development.

Mr. Deloria. But from the Bureau everybody receives the same level of services?

Mr. Largo. I think so. I haven't seen any——

Chairman Abourezk. I think I can answer that. I was down in San Diego recently and had a meeting with a number of the tribes. I don't know if you were there.

Mr. Largo. No. I remember the meeting you were at, though.

Chairman Abourezk. And everyone I talked to said they weren't getting any services at all, all they were getting was a stonewall.

Mr. Deloria. Has anybody called to see if they are still in the office? Maybe the office has been abolished.

Mr. Largo. I travel to the agency office on an average of maybe two to three times a week and——

Mr. Deloria. They are all there?

Mr. Largo [continuing]. That is about a 45-minute trip for me. Yes, they are all there, but I travel there because of the services that maybe another reservation needs in the performance of my duties. They are all there and they are congenial to talk with, but the minute you start asking for services, they develop a negative attitude. The elimination of those kinds of people from at least the agency level would sure be a big help.

Whatever would replace the Bureau, if there should be something to replace it, or if the Bureau would be removed from its present structure, a major factor would be that it would have to be responsive, even if it were a direct line communication there would have to be some kind of immediate response to those requests. Even if it were not the Bureau that handled it, at least they would know of another agency that would work with that problem program.

Mr. Goetting. How large an office does the agency have in Riverside?

Mr. Largo. It is quite large. I can't give you the square feet, but it is quite large.

Mr. Goetting. Do you know about how many people might be working there?

Mr. Largo. I would imagine about 30 to 45, maybe that is a little bit high. We have everything from our superintendent and two or three administrators there, high-level administrators, all the way down to, well, our social services program.

Chairman Abourezk. Thank you very much. You have provided a lot of information. We appreciate your testimony.

Mr. Largo. Thank you for the opportunity.

Chairman Abourezk. The next witness is Richard Belmont.

STATEMENT OF RICHARD BELMONT, JR., CHAIRMAN, SUQUAMISH TRIBE

Mr. BELMONT. My name is Richard Belmont, Jr. I am chairman of the Suquamish Tribe of the Fort Madison Indian Reservation, surrounded by the State of Washington.

First of all, my task here is twofold. I was chosen to be spokesman for the National Law Enforcement Assistance Administration Criminal Justice Indian Council that met recently in Albuquerque. Also, I would like to present a few problems with my own tribe concerning the Bureau.

First of all, I would like to say that the way that we feel LEAA and the BIA fit together, we feel the BIA should have a close relationship with other agencies that deal with moneys concerning Indian people. So the consensus of the national council is that the BIA should be involved in the LEAA system, and that is, that LEAA's programs are only funded for 3 years and maybe 4 years. They have set up jails, they have set up different rehabilitation centers for these tribes, yet there is no coordination with the Bureau.

Seeing it is a trust responsibility of law enforcement for the BIA anyway: It was the feeling of the council that the BIA should be coordinating through LEAA to pick up these programs that LEAA has funded for the last 3 years. If they do not do this, then we are going to have a lot of white elephants sitting around the United States because of lack of response from the BIA in cooperation with LEAA in continuing these funding processes. I think the way has already been shown through LEAA that they have taken the steps to help Indian tribes to start programs. Yet the BIA, we feel, should continue this by picking up these programs.

You have before you, I think, the narrative that came out of our council, so I don't want to go any more into this unless you have some questions at the end.

Now I would like to get into some of the problems with the Suquamish Tribe. The BIA in July of last year had promised us a new police car. It is now May, and that police car is still sitting someplace in the system. The police car that they gave us is sitting on our reservation, it has been sitting for 6 months because we don't have any money to fix it up. The front end is out of it, and it would be very dangerous for our police officers to be chasing non-Indians around the reservation with a car that rattles and shakes.

Also, on rights protection money, in July of last year we were supposed to receive rights protection money under the *Boldt* decision along with law enforcement moneys. Well, as of May 1 we were notified that we were receiving the moneys, $35,000 in rights protection and $22,000 law enforcement. We haven't received that money to date. I suppose we will probably receive the money sometime in the middle of this month and we have to expend that money by June 30 of this year. It was supposed to be given to us back in July. So we have to go back, go through all our records and see if we can come up with some way to expend this money. If we can't, then we are caught in a situation again where the BIA says, "Well, we give you $35,000 but you can't expend it."

This is a real problem.

Also, on the Public Law 93–638 funding formula, we have asked the Bureau how that formula came about. To the best of my knowledge, that is not in the act, it is in the regulations. I would like to see one change in that funding formula, and that is that all tribes that are under 1,000 population receive a base grant of $50,000. Then they can take the formula and use it for tribes over 1,000 population. I think this would be equitable to all smaller tribes.

We have a couple of small tribes in the State of Washington whose total grant would be about $800 if they go on the funding formula that they presently have.

I would like to go into the Claims Commission a little bit and the responsibility of the BIA to tribes. Speaking for my tribe under docket 132, which was in the Claims Commission Court for approximately 20 years, after the whole thing was finalized the tribe rejected the amount of money for the claim. We said we would rather have our land returned instead of getting 90 cents an acre.

Well, after 20 years of trying to convince the Claims Commission docket we didn't want any of their money, they made a ruling and said we shall receive $43,000, or 87,000 acres of land and that's it.

Recently I got a letter from, I think it was one of the Senators, I can't remember which, that asked what our tribe wanted to do with this money. Well, I can't tell you what I told them I wanted to do with the money. I don't know where it is now, but the tribe still hasn't accepted the money although we know Congress appropriated it. It is sitting some place drawing interest but we are not sure exactly where. We don't really care because we are never going to accept the money.

Also, to cut it kind of brief because I have got one more thing to discuss, and that is court decisions which affect the lives of small tribes and the lives of my tribe. Seems like they always take court decisions which seem to be lacking in backup material to present to the Supreme Court. Recently there was a Supreme Court ruling on the taxation of cigarettes. We are now going over the opinion in this court decision, and if it stands in the State of Washington, which taxes the tribe and its outlets—which, by the way, have a Federal trader's license, and the tribe has an ordinance governing our smokeshops, we also tax our own smokeshops: this is the only revenue that my tribes has—the only revenue. So one court decision can destroy our whole economic base for the Suquamish Tribe. So don't be surprised 2 years from now if you see a garage sale in the Suquamish Tribal Office.

With that, I would like to be open for questions.

Mr. DELORIA. Mr. Belmont: Does the source of revenue for the tribe come from tax revenue or from tribal ownership of the smokeshop?

Mr. BELMONT. The way our smokeshops are set up we have a tribally owned smokeshop, plus we have two private outlets.

Mr. DELORIA. Which you tax?

Mr. BELMONT. Which we tax.

Mr. DELORIA. So the main income is from your own smokeshop, right?

Mr. BELMONT. The main income is from our own smokeshop, right.

Mr. TONASKET. For the benefit of the Commission that hasn't been over in your part of the country: Would you tell them approximately where you are located, the size of your reservation and your enrollment?

Mr. BELMONT. We are a 7,900 acre reservation, with 2,900 acres in trust, the rest in fee. We are located in Kitsap County about 11 miles east of Seattle.

Mr. TONASKET. By ferry.

Mr. BELMONT. By ferryboat.

Mr. TONASKET. I am glad you made that perfectly clear.

Mr. Belmont, do you receive much assistance, if any, from the agency? I guess it would be the Western Washington Agency. What sort of services do they provide your reservation?

Mr. BELMONT. Well, currently, like in law enforcement, they provide us with one police officer. This relates back to LEAA, too. We have two police officers under LEAA that will be funded for 1 more year. There isn't coordination between the Bureau and the LEAA to pick up these other two police officers; we are going to end up with one police officer to police 7,900 acres of reservation. Although we are a small tribe of 300, we have 3,000 non-Indians that we service through our police department. We have had 128 incidents since January of this year, and 103 of them have been caused by non-Indians. But since we have total jurisdiction over our reservation we feel we should service all the population. So you can see the service of law enforcement from the Bureau is lacking just in the sheer numbers of people that we have to police.

Mr. TONASKET. Do they come to your reservation to provide assistance to you in the development of programs or services, or do they require you the majority of the time to go to the Western Washington Agency?

Mr. BELMONT. The majority of the time, to get any kind of assistance, we have to almost demand it and put pressure on them. Not only political—I hate to use the word—but sometimes we even use threats against them.

Mr. DELORIA. Does your tribe administer other Federal grants?

Mr. BELMONT. Yes; we do.

Mr. DELORIA. A number of them?

Mr. BELMONT. A number.

Mr. DELORIA. You say out of 128 law enforcement problems this year, 103 were caused by non-Indians. Do you administer any social rehabilitation programs to try to bring these non-Indians up to the level of behavior of the Indians?

Mr. BELMONT. We have just recently developed a youth center on our reservation which is open to the whole community. We have tried to hold the county meetings but because of political pressures put on us by the county and by the State, these meetings just turn into a shouting match. Recently there has been a new organization started on the reservation called The United American Rights Association, which is a pretty title but I don't know exactly what their function is except I know they are still soliciting funds to fight the Suquamish Tribe on the two law cases involved, *Oliphant* and *Belgrade*. And Kitsap County has hired a new attorney, who is supposed to be an expert in Indian law, and the county, which I can't completely understand, filed a brief this February, 1½ years after the *Oliphant* case against our tribe, citing many things in Public Law 83–280.

We did go through retrocession in 1971. I did contact the county and I sent a letter on to the Bureau stating I was very concerned how taxpayers' money would be paying for the county to hire an attorney to fight, I know, the Suquamish Tribe, because if that's the case I think every citizen should be afforded the same privilege, to have the county hire an attorney to defend them.

Mr. TONASKET. Do you have much of a working relationship with the area office?

Mr. BELMONT. Not too much. Since we are a small tribe, it is almost impossible for me to physically go down to Portland, and usually that's what it takes, pounding on doors rather than telephone calls and correspondence.

Mr. TONASKET. What are your feelings about the area office? There was testimony all day long yesterday about doing away with the area offices and getting more responsibility down to the agency level. What is your feeling on it?

Mr. BELMONT. Any time you have to go through several agencies it cuts down the process and ups the costs. So I am in favor of direct funding to tribes. But before this was committed I would like to see a task force study on the ins and outs of direct funding to tribes. What we possibly could be losing or what we are not losing. It is hard to make a decision until you see a task force go through the whole process that we will be dealing with now to find out what the alternatives could be. I would hate to say go to direct funding without——

Chairman ABOUREZK. Excuse me, I want to try to get some order in the hearing room.

This fellow back here that has been holding a private meeting all morning, I would appreciate it if you would either meet outside or hold your voice down so we can hear. Thank you.

Mr. BELMONT. When you talk about direct funding, you have always got to look to see if they are going to cut us because of direct funding. But I would think this basically would be the best way to go rather than through so many different agencies and put up with all the white tape.

Mr. DELORIA. Do you receive assistance from the Bureau of Indian Affairs in resource development or fisheries or anything of that sort?

Mr. BELMONT. Pardon me?

Mr. DELORIA. Do you receive assistance from the Bureau of Indian Affairs in the development of resources or use of fishery resources, or any other physical——

Mr. BELMONT. To a point. They call us up to give us some advice. Like they said about this rights protection money, they called up and said, "Well, now we've got the money so you can go ahead and submit your application." Like I said before, we have got until June 30 to spend it.

Mr. DELORIA. When did they call you about it?

Mr. BELMONT. First, it was in October, then they said they hadn't had the money yet. Then they were contacted in January again and they said, "No, we haven't got the money yet." So I think we finally submitted our proposal around the 1st of March for the moneys, and right now our proposal and budget is sitting in Portland. I have been gone for 5 days so I couldn't say whether or not the money has been approved yet or not, but that is where our proposal is now. So you can see the problems we are going to have with that rights protection money and the law enforcement money. We have to expend it in 1½ months.

Mr. GOETTING. What were you to do with that money? What kind of work would you have to do?

Mr. BELMONT. Under the rights protection, in our budget we would hire a fish manager and two technicians, and their basic jobs would be to check the rivers for the type of water contact and manage our fisheries program. Naturally, the law enforcement is kind of self-explanatory. We have two fishery patrol officers that would patrol our beaches and patrol our tribal fishery to make sure they were abiding by our tribal regulations and the regulations set down by the State and Federal Governments.

These two grants were mandatory under the *Boldt* decision. I would like to interject there has been a lot of controversy over this *Boldt* decision but Indians are regulated more than any other area of fisheries. They are regulated by tribal regulations, State regulations, and Federal regulations.

Mr. GOETTING. You say this money would have to be used by June 30. What happens after June 30 for the next year of protecting under the *Boldt* decision?

Mr. BELMONT. We are supposed to get it refunded. I think we are to get money for the fifth quarter, 25 percent, I am not sure yet. The whole thing is a big mess, as far as I am concerned. But there is supposed to be money allocated for next year. We are supposed to be receiving $38,000 for fiscal year 1977. They keep telling you these things. But you've just got to wait until they come before you can believe anything.

Mr. GOETTING. What is happening in the absence of that protection? Are you losing money? Is there an estimate of what you are losing in regard to it because of the lack of funds to protect it?

Mr. BELMONT. Up until now we have been carrying a lot of these programs on tribal funds, but again because of this recent court decision our funding level is cut now. Most of these contracts we receive are reimbursable contracts, which kills small tribes because we have to keep enough money in our checking account for 3 months to carry all these contracts. And now that they have come down with this court decision where it is going to completely cut off our economic base, we are not even going to have enough money to put in for some of these rights protection and law enforcement contracts because we don't have enough of our own money to carry the contract.

Mr. GOETTING. Wouldn't it be appropriate for you to repay the tribe the amount of money you have loaned to those programs in lieu of that money that you are supposed to get under the *Boldt* decision?

Mr. BELMONT. We have already thought of that, and that is the only route we are going to go, but it is going to take a lot of research and a lot of time to go back through all our records up to July to do this. I don't know what the response of the agency is going to be. Yes; we have already got that in mind.

Mr. GOETTING. If they don't respond to you, don't respond to them. If they give you the money you repay yourselves and let's see what they do.

Mr. Deloria. Do you have other Federal funds that you are administering that you could use for those purposes without being out tribal money, if you were allowed to?

Mr. Belmont. If we were allowed to. It depends on the funding agencies, I guess. We have, now, a program that is a 2-year program which we used up in 1 year so we can go back and pick up the money out of this rights protection, change the account and put that rights protection money in this other account. Now, we have got to check to make sure this is completely legal.

Mr. Deloria. Have you been informed by the Bureau of Indian Affairs that under the Joint Funding Simplification Act there is authority to allow that?

Mr. Belmont. No.

Mr. Tonasket. Would you give the Commission an approximate cost to your tribe to stay in litigation to protect your sovereign rights or tax or jurisdiction? What it cost you last year?

Mr. Belmont. Last year it cost us approximately $20.000 in the two court cases that we had, and as far as travel it was about $3,000 or $4,000.

Mr. Tonasket. What does that represent percentagewise of your tribal budget?

Mr. Belmont. About three-quarters of it.

Mr. Tonasket. Do you feel these fights you are in are, in a sense, the responsibility of the Federal Government to protect that, or maybe to finance your court battles?

Mr. Belmont. Certainly it is their responsibility, but I am very apprehensive about using BIA attorneys.

Mr. Tonasket. How about BIA money?

Mr. Belmont. I would use BIA money.

Mr. Tonasket. Has it been requested, to pay for your attorney fees and court costs?

Mr. Belmont. We are under the understanding that the BIA will not pay for litigation costs.

Mr. Tonasket. Has it been requested?

Mr. Belmont. We have requested help, but we haven't actually sent in a bill for attorney bills to the BIA; no.

Mr. Tonasket. You have requested help. What sort of response have they given you?

Mr. Belmont. Well, like the solicitors, you ask them for an opinion and they come down and say, "Well, we are not sure if we give an opinion you might not like it, so we are not going to do anything."

So my response to that, and it always has been, I don't really think we need solicitors. The solicitor, if he makes an opinion in favor of the tribe, you have to go to court to defend it. Sometimes the Bureau will go to court with you but not all the time. If he says it has a negative attitude toward the tribe you still have to go to court, so I can't really see what good a solicitor's opinion is.

We have reached out for help through the Justice Department, also, to respond to some of our needs on protecting the rights of our Indian people, and we get a negative response. That is why I am very hesitant to go to the Bureau and use their technical assistance as far as the protection of my tribe's rights and sovereignty.

Mr. TONASKET. But do you feel they should appropriate dollars so you can hire technical assistance people?

Mr. BELMONT. I definitely feel this is one area that is lacking. It is a responsibility of the Bureau of Indian Affairs to provide moneys to protect our rights. It has been a very, very heavy burden on our tribe since we are such a small tribe, we have a limited income. In fact, with these two cases, the *Oliphant* case which is in the Ninth Circuit now awaiting a decision—I am sure it is going to the Supreme Court because I know the State and county won't let it lie, and I don't even know whether our tribe will have enough money to go to the Supreme Court. I just don't know if we can even afford it.

Mr. DELORIA. Is the Federal Government participating in the *Oliphant* and *Belgarde* cases?

Mr. BELMONT. They are participating in the *Oliphant* case but not the *Belgarde* case.

Mr. DELORIA. On your side?

Mr. BELMONT. I hope so.

Mr. DELORIA. Who is paying for the other side, do you know, in those cases?

Mr. BELMONT. Not for sure, but the attorney that has taken both the cases lives on our reservation and he has also got 36 acres of our tribal land leased for 50 years. So I think the United American Rights Association is donating some money, but I think he is doing a lot of it on his own because he has a vested interest in our reservation.

And this contract, the lease contract he has got was negotiated between himself, the BIA, and the tribal council at that time. But the tribal council in 1967, when this lease was negotiated, had no attorney, no attorney whatsoever. All he went on was the advice of the Bureau of Indian Affairs, and the lease, as I understand it, was negotiated by the attorney who leased our land and then taken to the BIA, and on concurrence with the BIA this land was leased out for 50 years.

Mr. DELORIA. What is the purpose of that lease? What kind of a lease?

Mr. BELMONT. The purpose of the lease was the land development. We get $7,000 a year lease for the first 25 years without being able to be negotiated, and in return, the gentleman who has the lease, he leases out lots between $8,000 to $12,000 a lot. This is on 36 acres of waterfront property. So he subleases this property to people that have enough cash to build on it. So there are about 27 houses on it now.

Mr. DELORIA. And you get $7,000 a year?

Mr. BELMONT. $7,239, something like that. And the big push by the Bureau at that time, the tribe had $400 and $7,000 in 1967 looked like a lot of money to a small tribe that had approximately $400 in the bank. And what they told them, which is really sickening to me, "Well, look-it, you can take this money and you can buy more land with it." We had the best 36 acres on the reservation as it was. But the people fell for it.

Chairman ABOUREZK. Any other questions? If not, thank you very much.

Mr. BELMONT. Thank you very much.

Chairman ABOUREZK. Before we go to the next witness I am going to recall Anthony Largo to the witness table.

Is Jack Peterson here? Would you come up, too?

I am told you have some additional information you want to provide to the Commission. If you are ready to do that we would like to hear it.

STATEMENT OF ANTHONY LARGO, CHAIRMAN, SANTA ROSA BAND—Resumed

Mr. LARGO. I think what Jack was referring to: We had received notice of the regular meeting of the tribes in California about a band analysis meeting, is what it was, actually, as this was called, dated on the 26th of April and we received it some 4 days later, and there was some conflict——

Chairman ABOUREZK. Wait. Who was the letter from?

Mr. LARGO. Bureau of Indian Affairs, Southern California Agency.

Chairman ABOUREZK. Who signed it?

Mr. LARGO. If I remember right, that was signed—it would have been only one of two people, Mr. Tom Habor or Mr. Locks.

Chairman ABOUREZK. And addressed to whom?

Mr. LARGO. And addressed to me as the tribal spokesman, and I think every tribal spokesman in southern California received it.

Chairman ABOUREZK. Please continue.

Mr. LARGO. Well, the letter set up the meeting, the band analysis meeting, on the 7th, I believe it was.

Chairman ABOUREZK. Can you provide us with a copy of that letter when you get back?

Mr. LARGO. Sure.

Chairman ABOUREZK. Go ahead.

Mr. LARGO. It created a conflict in that we were being called here, and yet we had to also attend the band analysis meeting, which is somewhat important, too. I think Jack looked into the matter and I think maybe also Kirke looked into the matter as well.

Chairman ABOUREZK. Was there anything more pertaining to this meeting that you have to say?

Mr. LARGO. Nothing other than just what was suggested, that we inject this.

Chairman ABOUREZK. Jack, do you have any information on that?

Mr. PETERSON. Yes; I do. I was in Riverside County developing background information for Santa Rosa and for Torres-Martinez, the week this letter was received, and in a telephone conversation Mr. Largo conveyed to me that he had received a letter from the area office that conflicted with these hearings that are being held here today.

Chairman ABOUREZK. You mean the dates of the band analysis?

Mr. PETERSON. The dates of the band analysis were the 6th and 7th of May, Thursday and Friday of this week, in Riverside, which conflicts with the travel plans and them being here. He asked what I thought he should do so since he normally attended the meeting himself as chairman, and in these small tribes they don't normally have someone to delegate to.

I said it was probably more appropriate for me to call our office in Washington and talk to our general counsel about it rather than for me to directly contact the Riverside office, and I suggested we could probably get the meeting changed, at least in the case of these two small reservations.

I called Kirke Kickingbird the week of April 26, and I believe the call was made on the 28th or the morning of the 29th. Kirke subsequently called the area office. He can relate that conversation to you.

In summary, the area office stated they could not change the meeting since they had invited some 30 tribes to the band analysis, it was impossible to change, even though Kirke conveyed to them that this was in fact a congressional hearing and they were being called as witnesses. They did state, however, according to Kirke and the area office, that either of these gentlemen could send substitutes to the meeting.

Chairman ABOUREZK. To which meeting, the Commission?

Mr. PETERSON. To the band analysis meeting. They were intransigent in changing it, and as I understand it, Kirke may have made a phone call to a higher level of the Bureau of Indian Affairs in addition, conveying our dismay.

The reason that I believe it is important that this be put on the public record is that we certainly don't want—and when I was informed by Anthony after spending a couple of weeks with him, I had an empty feeling in my stomach for him, in that by missing the band analysis, either Anthony or Ted, their respective tribes might suffer from being here and not being able to participate in their band analysis, especially in light of the fact the Bureau refused to change it, since this is the annual budgetary process of the Bureau and since these tribes are so small and have such little resources.

Chairman ABOUREZK. Do you have any reason to believe the band analysis meeting was deliberately set on those dates to conflict with this meeting?

Mr. PETERSON. I am not a believer in burglars under the bed but I do know that the letter was dated after the invitations to this hearing were sent out by this Commission and the public notice of this meeting was mailed from its press department, and that all 30 tribes in southern California were called.

Chairman ABOUREZK. Kirke Kickingbird, do you have anything to add to that?

Mr. KICKINGBIRD. After I received Jack's phone call about a possible conflict with the meeting scheduled for these two witnesses, I called Deputy Commissioner Frankel, he wasn't in at the time, then I called the Riverside Agency, and there I talked to Mrs. Coe, whom I believe is the administrative manager. In any event, she is about the third or fourth person in the Riverside office. Her response was to the effect that the meeting was set up, they had invited some 30 tribes, and they couldn't possibly change it. I got back to Jack about that kind of problem. All she offered was, "Oh, they can send a representative." She was cordial enough on the phone.

When I received the return call from Deputy Commissioner Frankel, I discussed with him the fact that on three or four other occasions when they had scheduled hearings or meetings in California, that it seems that the area office, also, or an agency has set up conflicting dates. I am not sure about in all instances whether it was called at the same time sequence pattern, but I know at least on one occasion it definitely was, one or two occasions.

Chairman ABOUREZK. Is there any further information you want to give us?

Mr. TORRO. I would like to add something with regard to what the two gentlemen and Mr. Kickingbird has stated. I was at the office when Miss Linda Coe verified Mr. Kickingbird had called and wanted to cancel the meetings for this budget hearing, but they said they couldn't do it because of the other reservations that were going to be involved.

I called one of my council members the other night who I delegated to go in my place while I was up here, Mr. Porfirio Torro, he is my father, and I talked to him on the phone the other night. He said they went to this meeting and all the members, the chairmen that were there, indicated they thought this was just a training session on how to work on the budget. But the following day he told me that this was the final budget that had to be submitted by the 21st, I think, of this month. And also he stated that this is the first time, to my knowledge, and I am going to have to look into this, that they were requesting the tribes to submit in a resolution with this band analysis. This was never done before.

Chairman ABOUREZK. What kind of a resolution?

Mr. TORRO. This I don't know. I haven't talked to him since then.

Chairman ABOUREZK. Is there any other information pertaining to this issue?

Mr. TORRO. No; that is all I can say for that.

Chairman ABOUREZK. If not, thank you very much.

The next witness is Newt Lamar of Wichita.

[No response.]

June Artichoker.

STATEMENT OF JUNE ARTICHOKER, FORMER BIA EMPLOYEE

Ms. ARTICHOKER. Senator and Commission, I have a statement I would like to read. I think you have copies of it.

My name is June Artichoker and I was employed by the Bureau of Indian Affairs at the Anadarko Area Office, Anadarko, Okla.

My job was in the Higher Education Department as a clerk-steno, GS-4, with Virginia Blanchard, education technician GS-7 and Luke Toyebo, education specialist. We worked with approximately 1,500 Indian college students in the grant program.

Last fall, in September, Ms. Blanchard pushed an Indian student in our office and she did the same to me on January 23, 1976. I went to Mr. Delaney, acting area director, and he had conversations with Mr. James, area director, over the problem. Nothing was done and I went to the Kiowa Tribal Council for help and Mr. James assured the council he would take care of the problem. (I have a written transcript of this in my possession.)

On March 2, 1976, I gave testimony regarding the grant program to the task force hearing in Oklahoma City. At the hearing I stated the problems our Indian students are having because their grant money is as much as 6 weeks late in getting to the colleges because of the inefficiency of Ms. Blanchard.

College students' correspondence is not answered, their telephone calls are not returned, and the rude way she handles students. The area director has received many calls, letters and congressional letters regarding Ms. Blanchard.

Mr. Whitecrow of the Commission told me to go back to the area office and start my Equal Employment Opportunity complaint. The following day, March 3, 1976, with two members from the Kiowa Tribal Council and I went to Dr. Dry's office as he is head of the area EEO and I told him I was there at the request of Mr. Whitecrow to start proceedings for my EEO grievance. He told us to go to Ms. Martinez, EEO counselor. At 12 o'clock we left her office as we had started the grievance. At 1 p.m. the same day Mr. Toyebo was told by Mr. James, area director, and Mr. Delaney to pull my file and my papers were sent in immediately for my firing.

On March 5, 1976, Mr. Toyebo told me March 12, 1976, was my last day to work.

The lady that replaced me in the Higher Education Department is a non-Indian, GS–6.

Mr. James, area director, gave the reasons of shortage of funds and the work load was not heavy enough. He also said the job position I was in was not set up in his new organizational chart.

It is my belief that what I have recently experienced is a gross violation of Indian preference. I believe that in spite of the requirement for Indian preference in the employment of personnel in the Bureau of Indian Affairs set out in the Indian Reorganization Act and the recent Supreme Court decision officials in the Bureau of Indian Affairs are actively undermining the intent of Congress. These officials are seeking to diminish Indian influence in the operations of the Bureau and assure a place for non-Indians in Bureau positions.

To support my belief that this statement is true I ask you to remember that a non-Indian was employed to replace me. Recently I became aware that four members of the Kiowa Tribe holding positions in the area office and the Riverside Indian School at Anadarko are being challenged as to their right to be employed because of alleged nepotism. The threat, it is well known, stems from the area director's desire to eliminate any challenge to this authority by Indians and their tribal councils.

I have secured a copy of "confidential" correspondence from an unidentified author to the area director, Mr. Charles James, which alleges that Mr. Daniel Sahmount, the division chief of Indian education programs is in violation of personnel regulations because he promoted Mrs. Patricia Eaglenest to a position of GS–5 from a position of GS–4. Not until the elevation of Mrs. Eaglenest to a GS–5 was proposed did there come a controversy. Mrs. Eaglenest is supervised by Mr. Sahmount as a GS–4. It is only purely coincidental, one would have to assume, that the area director made known his desire to promote his own secretary to the GS–5 post at the time this controversy began.

Threats to Indians of a possible loss of employment in the Bureau because the officials do not agree with constructive criticism of the agency is a violation of Indian preference. Discharge of Indians because their views do not conform to a rigid and protective attitude of Bureau officials and replacement of an Indian with a non-Indian is in violation of Indian preference. At the least, these employment practices in the Anadarko area office and in any other Bureau offices are intended to diminish tribal influence through the creation of an atmosphere of fear and stabilize or increase non-Indian employment.

With the announced views of Secretary Kleppe appearing in an Anadarko newspaper that he will not be "dictated to by Indian advisory committees and tribal councils on matters of employment," we see his views being carried out through the actions of Bureau officials in the Anadarko area office.

It is commonly known that in a meeting of area directors in Phoenix, Ariz., recently that a systematic effort is now underway to place firm control over Bureau employment in the hands of area directors. It is further commonly known that these same area directors are planning to use this authority to secure non-Indians in positions—at levels of GS–14 and GS–15—to insure that qualified Indians will not have an opportunity to fill vacancies.

Finally, it is commonly known, that the area directors plan to use the employment authority to "diminish tribal influence in the operation of the Bureau."

When all the facts are combined one must conclude that Equal Employment Opportunity complaint procedures have failed and that Indian preference is made a sham by Bureau officials and the very principle of self-determination is not a reality in spite of the intent of Congress.

May I present Miss Echohawk, a college student whom I hope you will give a few minutes of your time because we need to educate and must educate our Indian people.

STATEMENT OF ALICE ECHOHAWK, STUDENT, COMMUNITY COLLEGE OF DENVER

Ms. ECHOHAWK. My name is Alice Echohawk. I am a student, full-time student, at community college of Denver, the Auraria Campus. I have been a recipient of BIA funds, full grant, for the last year. To obtain those grants I have gone through a lot of frustration and disgusting efforts to attain these.

Now, I have not really prepared myself to make a verbal presentation, I did try to compile all my material relating to the last 3 years in my efforts to try to go to school and obtain or achieve my goals in education. But I do have highlights here of my experience with the Bureau of Indian Affairs through verbal communication, through letters, which I have copies of, of which they have received copies; also the names of people whom I tried to have assistance or seek assistance with me through these agencies reflecting to the assistance I received from their Tuyebo office. I can relate at a later time, when more prepared, the student situations and the predicaments that they are in. Also, in relationship to the school which is totally disorganized, mismanagement of their procedures, where again that adds to compounding the frustrations and disgusting procedures of the students obtaining their checks at the school.

Also, the school has been without a financial aid officer until—well, they were without for approximately one quarter. They did have a financial officer come in who knew nil about the BIA, how they could help the student, until I began to at least initiate some ideas.

Following that the students had one of their Indian counselors—I take that back, it is the counselors who work with the Indian students, who was getting assistance from the BIA in town, in telephone calls if students' checks didn't come in, what-have-you. The main thing was the students' checks weren't coming in in ample time to be received so they could initiate their fees, take care of the rent, et cetera. The checks were usually late. And then with the school, because of the poor management, no procedure, everyone tossing the buck from one to another, no one assuming the responsibility for the Indian students, the Indian students had to run around, the checks weren't there, they had to trace the checks down, what-have-you. That can be placed in order.

Just this last week I took time out to go to Albuquerque. Miss Ida Weeks Totama is going to school at the University of Albuquerque, working on her associate degree nurse program. She submitted an application to the Anadarko area office for funds in Nebraska. She didn't receive word, nothing. Her funding agencies, which she was on, the Veterans' Administration and CEDA, were due to run out at the end of June, which meant this summer quarter, which she had some classes to complete, she had zero dollars in her funding for school.

In talking with her 1½ weeks ago she was very dejected because she had made efforts and initiative trying to contact some of the organizations for financial assistance for that particular quarter but she was determined to return to Albuquerque following her break for completion of the program.

When I related to her that I had moved some mountains this last year all because I had kept my papers and I had it right here, and I told her that because my checks were late and by the persistence of letters being written I got results.

Now, in relating to her the results I received from that agency, I got a voucher preceding my check, stating that my check would be there 2 or 3 weeks early but that was the last, out of the five quarters I only received one voucher. So I have implied and I have impressed and I have stressed, "Please send vouchers or at least communicate with the students so they will know when to anticipate these checks."

The same thing with the financial aid officer. There is a breakdown in communication all the way around.

I could not impress this on Ida's mind, to keep trying, to keep trying, to keep trying, but instead I went down to see her in Albuquerque, and she was going to class. I went out and I made the appointment. So I took her to LeRoy Falling's office and she had a classmate there that was about in the same position she was. So we went down the line. We took care of her girl friend first, and Ida expressed her comment to Mr. Falling and he in turn picked up the telephone and called the Anadarko office and we asked for Mrs. Blanchard.

It appeared or it sounded—of course, now I have somewhat of a biased feeling because I am on the other side trying to seek assistance, and having gone through this, I have again my opinion on this. When we talked to Mrs. Blanchard, Mr. Falling gave the name so she said, "Let me get the file." No, that was the second statement. The first was saying, "A letter is going out next week," then "Let me get Ida's file." And then she indicated Ida's amount of request was more than they could probably come out with. But now, in the final comment they were going to consider Ida's request, and Mr. Falling therefore told Ida to return to the office and they would call again. So I had to leave it at that, to see what results would come out of there.

In the meantime I wrote a three-page letter to Mr. James in Anadarko, which I have a copy of in here, again asking a request for myself, indicating and showing that we asked for Ida, and leaving it at that.

Again, this is just one of the many students that I have been encountered this last year. And why I have gone ahead and have become inclusive of the other students as well, number one, I got results. I had 5 years' work experience behind me, 5 in city government in management planning assistance where documentation is essential in computer automation, especially when you document your programs and put them on tape.

When I started getting all this excessive runaround at the community college, and then realizing I had the greatest advantage of getting my tuition, my whole schooling, education, taken care of by the BIA, then what I had to go through to get that money, I thought, "Well, phooey, what do I have to go through?" Then I looked at these other students, Navajo students coming in from the reservation, students coming from North and South Dakota, they don't have the concept of writing letters. Who did they turn to? What do they do and what happens, when? And in turn some of us—again I want all this material to more or less show reflection on the dropout rate, why they return, go into drinking again, it is important.

So, in essence, I started documenting this, and I added to what I have gone through, previously, because I felt somebody can do it and if somebody can do it, then why can't I? And if that's the case, this would open the doors for the other Indian students. This is where I am. I am not going to stop because I have the community college I want to go to. The community college in Denver has five campuses. At the particular campus I am enrolled they have 45 to 50 Indian students there, and some students—let me give you an example.

The director of nursing program at the Auraria Campus Community College asked in one of our workshops, the speaker on the floor:

> What do you do when a student gets the award letter and he is in a program, a nursing program, and he has the award letter but he doesn't get a check until 2 or 3 months later down the line, but yet he has to have money to live on, he has to have money to eat, he has to have money for this, that, and the other?

OK. The speaker didn't know how to answer this. She was with some scholarship agency.

Again, I raised my hand. I said:

> I can help you out. You have to have a good financial aid officer that knows P's and Q's about BIA, you have to have correspondence and write your letters and keep your letters, keep copies of your letters and know exactly where you are and push and be persistent.

I told her, "Each letter I had to write to the agency I added emphasis and I added more emphasis and I got results."

In the meantime the students go to the counselors. If they don't have any assistance for any of the students, then I'm waiting because if they get results there, that's fine; if they don't get results, then I'm going to be able to help them get results.

This is one of the problems we have in this area and I haven't stopped. Not with the BIA, I haven't stopped with the community college, I haven't stopped with nursing because that was one big hassle again.

That is what I will limit this to right now.

Chairman ABOUREZK. Thank you very much. We appreciate your testimony, both of you.

Mr. TONASKET. Could I ask one question? Ms. Artichoker, on the last page of your statement, where it reads:

> It is commonly known that in a meeting of area directors in Phoenix, Ariz., recently that a systematic effort is now underway to place firm control over Bureau employment in the hands of area directors.

and so on. Could you provide this hearing with some documentation on that?

Ms. ARTICHOKER. Yes, sir, I can. I don't have what I can present with me at the present time. We are having a task force hearing in Anadarko next Friday. I can present it to Mr. Reiger.

Mr. TONASKET. If you would, please.

Ms. ARTICHOKER. Yes, sir; I will.

Mr. TONASKET. Thank you.

Mr. GOETTING. I would like to ask one other question. Do you know the date of the meeting in Phoenix, Ariz.?

Ms. ARTICHOKER. No; but I can get it.

Mr. GOETTING. I will be at that Anadarko meeting; will you give it to me?

Ms. ARTICHOKER. Yes, sir; I will.

Ms. ECHOHAWK. Excuse me. I intend to submit this material. But I do have some other objectives I would like to finalize——

Chairman ABOUREZK. You have 30 days.

Ms. ECHOHAWK. I will have that in, but this will be presented when I complete it.

Chairman ABOUREZK. Thank you.

Newt Lamar, are you ready?

This will be the final witness before lunch, before the lunch break. Following the lunch break we will take then the unscheduled witnesses who have not been scheduled prior to this time.

STATEMENT OF NEWT LAMAR, CHAIRMAN; ACCOMPANIED BY VERNON HADDON, PROGRAM DEVELOPMENT OFFICER, WICHITA TRIBE

Mr. LAMAR. Thank you, Senator. My name is Newt Lamar, chairman of the Wichita Tribe, and I have with me my program development officer, Vernon Haddon.

The things that we would like to speak to in our testimony are violations, in fact, gross violations of trust responsibilities that are supposed to be provided to us by the Bureau of Indian Affairs. The first thing I would like to speak on, just to give a brief summary of it, there was a lot of land in our area that was not allotted nor homesteaded.

This land was refrozen in 1934. In fact, it was 1,356 acres, and here is some correspondence dealing with that particular land. Attachment A is a letter from the Bureau of Land Management to the Anadarko area director regarding restoration of lands in former reservation areas per section 3 of the Indian Reorganization Act. Quote, last paragraph of the letter.

> If you concur in the proposal that the 1,356 acres referred to herein should be given Indian trust status, we will be glad to entertain your request to this office to proceed with the preparation of a public land owner for consideration by the Secretary of the Department of the Interior and to give these lands Indian trust status.

Attachment B is the letter that Sid Carney wrote back to the BLM 1 year later. Quote from that letter, and these letters are attached to this report.

> We do not find it in the public record to have the lands restored and therefore the lands may be removed from the temporary withdrawn status and made subject to disposal in accordance with the regulations of your Bureau.

On the above subject, no tribal leaders were ever told of this land, that it was even available to us. It laid there from 1934 to 1968. Right now, there are 13 producing gas wells on that land, and at the time the land was given to whoever got it it was valued at $500 an acre, and they don't feel it was even worth bothering with. To our tribes, who have no land, this is a very serious blow to us. In fact, after this letter went back to the Bureau of Land Management they issued a directive that the State of Oklahoma could file on that land for a 1-year period. After that 1-year period, then any individual could file for it.

We challenged one individual that was filing for a 120-acre parcel of that land. Of course, we were overruled on it. We went out to BLM, took with us Clifford Burchhead, who is the area realty officer, and we tried to get the balance of the land refrozen, that was still available, there was about 800 acres at that time. BLM supplied him with all the maps and everything dealing with those particular parcels of land, he was told that the Bureau could refreeze it, it could be given back to the tribes.

We went back to Anadarko and shortly thereafter, Charles DeLaney, the assistant director who was the acting area director at that time, stated to us that the land had been refrozen.

After that I sent Mr. Haddon out there to get the land descriptions, to start the process of having this land restored back to the tribes. He called me and said the Bureau had not refrozen the land, that it was all gone.

I called Mr. DeLaney and he said, "Well, gee, we're sorry about that."

I said, "Is that all you say, you are sorry you gave our land away?"

The land is gone, there is apparently nothing we can do about it, but I am using this as an example of the types of activities the Bureau is providing.

Mr. Goetting. Newt, could I ask you a question?

Mr. Lamar. Yes.

Mr. Goetting. In the category of the fact there is a lot of information prior that requested the Bureau to follow procedures that were not followed even after the notification from the tribe: Is there any legal interpretation of malfeasance or resistance in terms of the protection of the trusts? Have you checked with any attorney with respect to that? Is there an opportunity to sue individuals in the Bureau for that sort of thing?

Mr. LAMAR. I would imagine we could probably file a lawsuit against Clifford Burchhead. It was his responsibility.

Mr. GOETTING. He is the agent of the BIA. Have you looked into that at all?

Mr. LAMAR. No.

In speaking of this land that we lost out on this appeal to this individual by the name of Rex Bransen, one of the parcels that the BIA thought was too small actually contained 128 acres. The BLM file indicated the value in the adjacent areas was as much as $500 per acre. However, the land went to Rex Bransen for $100 per acre, $12,000 paid in.

In our agreement it states, any excess public domain lands within the former reservation area that were sold, the money, less $1.25 per acre, would go to the respective tribes. In this case we don't know where the $12,000 went.

Mr. Haddon brought to my attention that we have a summary of trust funds. There is $567 in there, and it has been there for 20 years. This thing here took place 2 years ago. So the money has never been deposited to our account and we have been trying to find out where it went and no one seems to know.

We have a case where the BIA has ruled that a lease was invalid at its inception. This concerns farmland owned by the Wichita Tribe. The alleged lessee is preparing to harvest his second crop, even though he has no lease. He has been able to exercise dominion over the land with the assistance of the chief natural resources officer, Herman Lewis; the field solicitor, Benno Imbrock; and the Commissioner of Indian Affairs, Morris Thompson.

Attachment E is a letter from Clark Stanton, Director of Office of Trust Responsibility, advising Joe McComish: "As the situation is now you do not have a valid lease insomuch as the lease was declared invalid at its inception by the acting superintendent."

And this has been upheld by the area director and has been upheld by the Commissioner of Indian Affairs. Yet the Commissioner of Indian Affairs sends a wire 7 days later, after this letter came from Clark Stanton, stating that:

> Pursuant to 25 CFR, effective June 11, 1975, you are hereby advised to require a bond from the Le Pallot equivalent to 2 years' rental. It is suggested that bond be in the amount which will provide for a minimum of $30 per acre per year, as this is the amount which has been determined to be the fair annual cash rental by appraisal report March 10, 1975. The bond will adequately protect the interests of the tribes during the pendency of the appeal.

What we told the man leasing the land was to get off the property. This is what we wanted. But the Commissioner says:

> Refer also to our letter of July 24, 1975, to Mr. Joe McComish regarding the status of the lease during the pendency of the appeal. Those portions of the letter referring to the lease provisions during the pendency of appeal are hereby rescinded.

In other words, it is being interpreted as a fact the Commissioner rescinded Clark Stanton's order saying the lease was invalid. So the thing is on appeal now in Virginia, but our problem is, we haven't been paid one dime for that lease, it is going into its 3d year now, and we know why they are dragging the thing on, so the appeal process will take up the full 5 years the purported lease was supposed to be for, you know. And the man has not put up the cash rental bond. He put up a surety bond. We asked the agencies, "Whose responsibility is it going to be to collect that money in case we should win on this appeal?" He said, "Well," he said, you know, "it would be the agency's responsibility."

Also, the man we are dealing with here is the manager of the Federal land bank in Anadarko, Okla. He is working very closely with the people in the ASCS office there. It is just really a situation where our people there in the trust responsibilities, you know, they all drink out of the same trough with these people the Indians have to deal with there. They belong to the same farm organizations, and everything else. I would like to point out on this particular lease, Mr. Wayne Condry, who is now here in Denver working with BLM, came to us and told us he had originally done the appraisal on this property at $30 an acre. Three times it was sent back by the area appraiser, Gerald Livingston, telling him it was too high. He finally got it down to $18 an acre and they approved the lease.

We got an independent appraiser, he appraised the property at $30 an acre. The man leasing our land knew that I myself would not go with that lease and at that time I was the vice chairman. He got my chairman and two other chairmen to sign the lease with no concurrence from their business committee whatsoever. This is the ground that we had the lease revoked.

I mentioned the lease going for $6,500. The new appraisal showed it should have been $10,590.

We have another letter that was approved by the Bureau of Indian Affairs. The appraised value on the lease is $5,500. The lease was executed for $3,750, for no rhyme or reason why, and the Bureau approved the lease.

These are just some of the things we are showing you here so that you would know that these types of things are going on within our area there.

The last thing I would like to speak on is the accounting for payments to the Wichita for lands ceded. We got an accounting from the Government on the moneys that were supposed to have been paid to us. They shorted us what we feel like about $125,000. But basically, in this document here, the Government tells us that we retained tribal ownership, 4,151 acres for our own use. We have to this day never seen that land. We don't even known where it's at.

Mr. Deloria. Have you asked them to——

Mr. Lamar. We have been trying to get an accounting from them and these are letters from the Bureau telling us we should have this land but they don't know where it is. They have been trying to find out from the Bureau of Land Management where it is.

In our agreement with the Government, they agreed to set aside for us 1,060 allotments, we only got 966. So there are 94 allotments missing. We have a letter here which we will have in the file, where the area director said they didn't know where it went.

Mr. DELORIA. This will all be put in the record?

Mr. LAMAR. Yes; all this information. I am sorry I didn't have it in written form so that you could have it here with you. We more or less put it together in a hurry.

Basically, what we are saying, and wondering if the Commission here is actually doing any investigations, for instance, to possibly hire people to maybe go into the Anadarko area, for instance, and check appraisals that have been made by that area office there against what the local population are getting for their land. The Indians are getting half of what they should be getting.

Mr. DELORIA. What recommendations would you have for dealing with the problem?

Mr. LAMAR. Well, for one, I would say the tribes could do a much better job of handling the preparation of leases, negotiating the leases, but there again, it is going to have to come from the top. The minute we try to talk to our people about something like that the Bureau says, "Well, you want to be taken out from under trust responsibilities. The minute you start doing that stuff for yourself, then you're dead." We know better than that but they still tell our people this, and they say, "No, you don't fool with the leases, you don't do anything concerning our lands because then that would take us out from the trust responsibilities."

Hell, I would rather be out of it than to have something like this going on all the time.

We recently talked to the oil and gas sales people in Anadarko about the possibility of them zoning Indian lands as far as oil and gas is concerned. You know, on a Indian lease, there is no depth limit. They can drill to China if they want to. What we are telling them, "Do like the non-Indians are doing. Zone your land."

There is an instance where a lady got $15,000 for an oil lease. Right adjacent, a non-Indian got $45,000. OK? What he said, when he dealt with them, "How deep do you want to go, 30,000 feet? OK, you've got a lease from 25,000 to 35,000, that your zone, that's where your lease is. OK, from 15,000 to 25,000 is another zone; from zero to 15 is another zone." So the oil company, fearful they might hit something on the way down to the zone they had leased, they leased all three zones.

We asked the Bureau, "Why not do that for the Indians?" They said, "We don't have the staff nor the resources to do that." So this is the problem we have there.

Mr. TONASKET. Who in the Bureau said that?

Mr. LAMAR. Well, the oil and gas sales people.

Mr. TONASKET. Who in the Bureau says, "No, we don't do that, we don't have the staff"? Can you give us the name?

Mr. LAMAR. I will get the name for you.

Mr. TONASKET. Would you, please?

Mr. LAMAR. It was the person that I talked to. In fact I talked to Stanley Speeks, the superintendent, about it.

Chairman ABOUREZK. Is he the one who said, "We don't have the staff"?

Mr. LAMAR. Yes; and the reason they don't have the staff is, they have a man in oil and gas sales who is a brother to the former area director, Sid Carney, and this guy is a coach, come from California, no background in oil and gas sales whatsoever. About 1 month ago we finally were able to run him off.

Mr. DELORIA. Have you looked into the possibility of litigation against the Federal Government for damages for this kind of thing.

Mr. LAMAR. Well, you have to realize we have only been in business now about 2 years. Actually, the first year we worked for nothing. Our tribes have no money, the leadership is not paid, I myself. as the chairman for the tribe, I get $15 a month. So we don't have the resources to take on the Federal Government.

Mr. DELORIA. Is this practice of zone leasing a standard practice among non-Indian landowners?

Mr. LAMAR. Yes; and I will tell you what happens. People come down there, they are speculators. They come in to the agency, they lease the Indians' land, they turn around and zone it and go right out and lease it in that fashion, yes.

Mr. DELORIA. Sublease it?

Mr. LAMAR. Yes. They might pay the Indian $100,000 for a lease, but by the time they get done with it, they have made anywhere from $300,000 to $400,000.

Mr. DELORIA. Is there any investment on their part required for the subleasing, or is it just drawn up in a different form?

Mr. LAMAR. No, as far as the Bureau is concerned, that guy has the lease, you know, and he turns around and subleases.

Mr. DELORIA. And all it requires is just different provisions in the lease?

Mr. LAMAR. Yes.

Mr. DELORIA. He puts no money into it other than the cost of the paper?

Mr. LAMAR. No; and most of the speculators, say, get about a 5-percent override on the leases they make. I mean they increase their profit by that amount.

Mr. DELORIA. Can you document instances where Bureau of Indian Affairs officials have discouraged you from taking over your own leasing, told you that that would be termination?

Mr. LAMAR. Yes, we just recently submitted a proposal to contract for our total agency, and now we are being torn apart by our own people. The Bureau people are telling them, "I see you want to be terminated."

Mr. DELORIA. And you could give specific dates and instances and people who have said that?

Mr. LAMAR. Oh, yes; even some of our own tribal people and our board members tell us these things. It is creating havoc within our three tribal organizations.

Chairman ABOUREZK. Newt, right now can you name a person in the Bureau who said to one of the tribal members, "You are going to be terminated" or "This is termination if you take over your own leasing", can you name him now?

Mr. LAMAR. Me?

Chairman ABOUREZK. Yes.

Mr. LAMAR. I have been told.

Chairman ABOUREZK. By whom?

Mr. LAMAR. One was David Paddelty, the employment assistance officer.

Chairman Abourezk. David what?

Mr. Lamar. Paddelty.

Chairman Abourezk. Can you spell it?

Mr. Lamar. P-a-d-d-e-l-t-y.

Perhaps Vernon has heard some of this talk.

Chairman Abourezk. Let me finish up the questioning here. David Paddelty told you what?

Mr. Lamar. That this 638 process was leading to termination. That the next step after contracting under 638 would come termination.

Chairman Abourezk. When did he tell you that?

Mr. Lamar. It has been within the past month, it had to be.

Chairman Abourezk. Can you tell us the date?

Mr. Lamar. Not offhand, no.

Chairman Abourezk. It was within the past month?

Mr. Lamar. Yes.

Chairman Abourezk. Where did he tell you this happened?

Mr. Lamar. At the area office. Our tribal group had a meeting with all the branch heads of the various departments within the agency, trying to get from them information regarding——

Chairman Abourezk. Can you name any of the witnesses?

Mr. Lamar. No; I would have to go back and ask who was standing there. This was just in general conversation, you know. I wasn't aware of who was listening, or the date, or these types of things.

Chairman Abourezk. Can you find out who was there besides yourself?

Mr. Lamar. Yes; I will make that attempt.

Chairman Abourezk. Would you give that to Sam Deloria?

Mr. Lamar. Yes. In fact, I will be testifying, also, in Oklahoma City with regard to some other matters.

Mr. Goetting. Senator, we have a task force hearing in Anadarko next Friday.

Chairman Abourezk. Can you have it by then?

Mr. Lamar. Yes.

Chairman Abourezk. You will take it to the task force and present it there?

Mr. Lamar. Yes. If you don't mind, I would like to ask my program developer here if he has anything to add to what we have gone over here. I realize we are sort of in a mess here and I may have missed something we wanted to bring up.

Mr. Haddon. No, the only thing I can think of right offhand, we have people at the area level that absolutely will not perform. We went to the field solicitor, he is not in the area but he is in the department. We went to the chief of the natural resources, and we asked for injunctive relief.

Chairman Abourezk. In the form of what?

Mr. Haddon. On the job they are supposed to do, protecting the land. We have the manager of the local Federal Land Bank that doesn't have a lease on our property but farms it, this is his 3d year, and before he harvested last year's crop we went to them and we asked for injunctive relief so they would keep track of the amount of wheat that came off the property, so on and so forth, and they told us there wasn't anything they could do.

Chairman Abourezk. Who told you that?

Mr. HADDON. Herman Lewis, the solicitor, Benno Imbrock, both told us the same thing.

Chairman ABOUREZK. Told you?

Mr. HADDON. Yes, sir.

Chairman ABOUREZK. Where was that at?

Mr. HADDON. At the area office.

Chairman ABOUREZK. When?

Mr. HADDON. It was last May—just before the crop was harvested.

Chairman ABOUREZK. A year ago.

Mr. HADDON. Yes, sir, 1 year ago this month.

Chairman ABOUREZK. Do you remember who else was there at the time you were told that?

Mr. HADDON. In the solicitor's office I think Rex Bransen was in there, and in Herman Lewis' office there was a group of us there.

Mr. DELORIA. Is the manager of the Federal Land Bank a Federal employee?

Mr. LAMAR. He is under the Federal guidelines.

Mr. HADDON. He is under the FCA, that's where their money originally comes from.

Mr. DELORIA. Production Credit?

Mr. HADDON. No, sir; Farm Credit Administration, that's what it is.

Mr. DELORIA. Is he a civil servant?

Mr. HADDON. He is not a civil servant, but he is under Federal guidelines. They had regs come out last July and among the regs they say he will devote his full time to the Federal land bank. I hardly think that a person could farm over 2,000 acres and devote full time to the Federal land bank, but they sort of turn a deaf ear on that.

Chairman ABOUREZK. Does he pay for the lease?

Mr. HADDON. He hasn't paid for it in the last 2 years.

Mr. GOETTING. Senator, this was a comment they made just before. They tried to exercise the lease but the lease had been declared invalid, and they can't remove him from the land even though the Bureau admits it is an illegal lease that doesn't exist. The man doesn't pay, they can't get any money, he is harvesting crops. They think if they can carry on this process for the 5-year lease, that they can go through the court process, he will farm that for 5 years for nothing, and the BIA is doing nothing about stopping it or removing him.

Chairman ABOUREZK. Whose land is it?

Mr. LAMAR. It belongs to the tribe.

Chairman ABOUREZK. I've got a suggestion for you. I learned this from Seela Blackcrow up at Pine Ridge. The deputy sheriff up in that county had been bringing his cattle down there and grazing them there every year for many years without paying any money and without asking permission.

Seela moved onto his land finally. When the sheriff dropped the cattle off, Seela said, "To what do I owe this great generosity?" He said, "In return I'm going to have a big feast in your honor. We are going to kill all these cattle and invite the whole community in to eat them."

I would recommend that perhaps you harvest that grain. It's on your land. Harvest it and have a big feast or, you know, take it to market and sell it.

Mr. LAMAR. If you'll come down and help us we'll all go to jail together.

Chairman ABOUREZK. Why would you go to jail if it is your own land?

Mr. LAMAR. There again, we mentioned the fact that Clark Stanton wrote a letter and stated the lease was invalid, for all intents and purposes the man should have been kicked off. And 7 days later the Commissioner sent a wire down, stating the man can stay on the property until the process of the appeal runs out.

Mr. GOETTING. The lessee is the Federal land bank fellow who helps finance through the process; the whole thing is a conflict, or a commercial interest relationship there.

Chairman ABOUREZK. That incident, too, I will ask the staff to look into. Where is Kirke Kickingbird?

Kirke, did you hear this testimony?

Mr. KICKINGBIRD. Yes.

Chairman ABOUREZK. I would like to ask you at this time if you would get ahold of the Federal land bank people and find out just what kind of conflict this fellow is involved in.

Also, if you would get in touch with the Bureau of Indian Affairs and the Solicitor's office, get their position in writing on this thing, and then we will go from there.

But I want to emphasize once again, it is your land, if there is no lease on it it is your land and that guy is trespassing. You can do anything you want——

Mr. LAMAR. That is what we maintain, but, you know, we have three tribes that own that land together, and you cannot get all three of them to take one particular action against this individual because one of the people within the Delaware Tribe sits on an Indian conservation program there, whereby all the farmers farming Indian land buy their grain from him or from this Indian conservation thing at 10 percent over cost, and then they are able to use Government equipment there that is supposedly owned by the Indian Conservation Corps. At the end of the year those people get a sizable bonus for the money that is made during that particular year, you know.

Chairman ABOUREZK. You and your tribe own a third of that land, don't you?

Mr. LAMAR. Yes.

Chairman ABOUREZK. Well, harvest a third of it, then.

Mr. LAMAR. OK, we will do that. That is your suggestion——

Chairman ABOUREZK. Go right ahead.

Commissioner DEER. That is your tribal sovereignty.

Chairman ABOUREZK. Why do you let people push you around like that?

Mr. HADDON. One reason we are pushed around there is because at the area level the chief of Natural Resources is a deacon in the same redneck church that this Federal land bank guy is, that is one of the reasons.

Chairman ABOUREZK. No: the reason you are being pushed around is because you are letting them do it.

Mr. GOETTING. Senator, the other part is, too, as Newt just mentioned, every time he tries to go to his council and his people in a meeting to say, "This is what we ought to do," he can't get backing because they are all scared to death of termination because of the comments and discussions that are being held in various meetings by the BIA employees that "Don't let your chairman talk you into this because it is termination." So they don't permit him to do the kinds of things he is bringing up.

Chairman ABOUREZK. You mean you can't go harvest your own grain because that is termination? They certainly don't believe that?

Mr. GOETTING. It has the same result.

Mr. LAMAR. We had a situation, and it is a very bad situation, where a lady was sitting on our board, WCD Enterprises. She was hired by Charles James as his secretary. The chairman of her tribe wrote a letter to Charlie James stating it was a conflict of interest.

He wrote a letter back, stating that he had researched it very thoroughly and that it was not a conflict of interest in her case. But yet he has used her for 2 years to try to wreck our programs from one end to the other.

Fortunately, 1 week ago her time was up on the board and we got rid of her. But she called meetings of various tribal people and disrupted all of our activities there, and people swear it is gospel because it is coming from the area director's office, you know, because she's his secretary.

Mr. TONASKET. Could I make a request of you? You made reference to a letter from the Commissioner of Indian Affairs which stated to let them go ahead and do whatever they are doing this year. Could we get a copy of that?

Mr. LAMAR. This is right here, in this packet.

Mr. TONASKET. I don't have it.

Mr. LAMAR. That is what I said, I am sorry we didn't get this all together, but there is a lot of stuff here. We have copies of all the leases we are referring to, we have copies of the appraisals, we have the correspondence dealing with the lost lands that we have. It is supposed to be a GAO accounting, and they couldn't account for anything, you know.

Commissioner BRUCE. You have all the figures and the documents?

Mr. LAMAR. The figures, everything's right here.

Commissioner BRUCE. Let me ask you another question. If you have Farm Credit involved there, they have a board that is elected. Are there any Indians on that board? Who is on the PCA Board?

Mr. LAMAR. Local farmers and members of the ASCS and the Federal Land Bank. Those employees switch back and forth, they sit on each other's boards. When the Bureau prepares a lease, if there are any offsets they don't put those in the lease, the person leasing that land, but they do offset against the tribal owners, but it is never reflected in the lease. I suspect that is where the money went from the $5,500 that we were supposed to get for this land in this one particular lease and we ended up with $3,750. I am sure those were offsets against us.

This same man at the same time went right across to ASCS and got subsidized for the very same things that offsets were charged against our tribes. In other words, they are double-dipping, and it is just a very bad situation there. If we could at all convince this Commission that you should come down and investigate that situation, you would find things drastically wrong in the areas of trust responsibility.

Commissioner DIAL. It seems to me the problem with you people, you need to move in, really, I believe this, that you are just being taken and you are letting them do it. There is a lot of fear. Down from where I come from, no one would do that. So I don't know why you let them do it. But I guess, as you say, they are afraid of termination.

Mr. LAMAR. If you go in there and beat the hell out of the area director, what happens to you, you know. They are all protected.

Commissioner DIAL. We had a war from 1964 to 1974 over such. There's your problem, and I think you got to work with your own people.

Mr. LAMAR. No, our problem is the system. I reported——

Commissioner DIAL. I know you did. I was listening.

Mr. LAMAR. I would like to back up, on what the lady testified previously. I was disturbed with the way the personnel situation was going in the Anadarko area. I went to Washington and talked to Morris Thompson. He told me he had no control whatsoever over the area directors.

Chairman ABOUREZK. He is probably right.

Mr. LAMAR. But he did send an investigation team down there and I found out, through another source, that of 50 personnel actions that Charlie James had taken, 27 of them were illegal.

I asked this individual in the central office what they were going to do about it. He said, "Well, probably just slap his hands."

I said, "Well, what happens to the people that were affected by those illegal actions?" They just sweep it under the carpet, you know.

Commissioner DIAL. But it seems to me you could put so much pressure on until no one would dare move in and do these things you are talking about.

Mr. LAMAR. This thing goes a little further, you know. They take all the appraisers and put them in the area office. We can't get to them unless we can get all 23 tribes to back us on these things. Yet we have an individual—it is no fault of yours or anybody else's—Kenneth Black, who sits as the executive director of the United Tribes. He backs Charlie James on everything he wants simply because two-thirds of his salary comes from the BIA and the contracts which Charlie James controls.

Our seven tribes in Anadarko got a resolution to have James removed and hand-carried it and handed it right to Morris Thompson, and he denies ever receiving it. At the same time, Kenneth Black is over there saying, "Well, the other tribes aren't against him."

Now, Kenneth Black is calling him every day saying, "We want this, we want that. If you don't give it to us we are going to throw in with those other fellows," you know. Well, they are getting everything they need now.

This is the whole process, play one against the other. This is going on just continuously.

Commissioner DIAL. Have you thought about getting some publicity on it, someone like Jack Anderson?

Mr. LAMAR. We sent all this stuff to Jack Anderson; he has never published it.

Mr. HADDON. Howard Hughes died the next day.

Mr. DELORIA. I think, seriously, we should point out, I don't think the Commission is suggesting that this is your problem and that you should take self-help. The point of these hearings is to determine what the problems are. This is a Federal responsibility because these are clearly Federal laws that are being violated or ignored, and I think it is appropriate to point that out. This is what we are interested in and we are planning to take action.

In the last 2 days there have been numerous allegations of violation of Federal criminal law, conspiracy, misuse of Federal funds, building buildings for private individuals, and other things. I think although clearly we will be making legislative recommendations, I think we would like to ask the Commission's general counsel to examine the record and where allegations of specific violations of criminal law have been made, if they could be referred to the Justice Department immediately.

I think the final thing is—I don't want the witnesses to think that we are being too glib about this—we do have an understanding and appreciation of 100 years of Oklahoma Indian politics in what is taking place and the results you are faced with now, and it's not a simple solution and we understand it.

Commissioner WHITECROW. Mr. Chairman, on behalf of the northeast corner, I would also like to let you know we have the same type of situation there and I intend to bring it to Task Force 3's attention.

Mr. GOETTING. I would like to say, Jake, in that respect, we have a hearing set for the 10th and 11th of May in Oklahoma City, a 2-day hearing on the 13th and 14th in Muskogee, and a 1-day hearing in Anadarko on the 14th. There are three task forces involved. We will have representatives at each one of those, and we are working with those people to provide testimony.

I would certainly like to see any of the members of the Commission, who feel these are serious problems, attend those hearings. They are task force hearings, as you know.

Commissioner WHITECROW. I intend to be at the Muskogee hearing and the Oklahoma City hearing, also. I do want you to know we have the same kind of problem there in the northeast corner.

Chairman ABOUREZK. That is excellent. Thank you very much.

Mr. LAMAR. I will leave all of this with the Commission. I will get it back in order, get it together and leave it. Thank you.

Chairman ABOUREZK. The hearings are in recess until 1:30.

[At 12:30 p.m. the hearing was recessed until 1:30 p.m.]

AFTERNOON SESSION

[The hearing was resumed at 1:30 p.m., Commissioner Louis Bruce, presiding.]

Commissioner BRUCE. The meeting will come to order.

We will hear our first witness, Helen Peterson.

STATEMENT OF WAYNE WILLIAMS, BUSINESS MANAGER, TULALIP TRIBES, PRESENTED BY MS. HELEN PETERSON

Ms. PETERSON. Mr. Chairman and members of the Commission: I am simply reading a statement left by Wayne Williams, business manager, the Tulalip Tribes. Just a few minutes ago he had to leave to catch his plane and asked that this statement be presented:

I recommend that the tribes be involved in an annual review and evaluation of the agency, area, and central offices and staff. These evaluations would become a part of each employee's file and would be considered when pay adjustments, promotions, and transfers are contemplated. Evaluation criteria must be based on performance and not on personality. Is that employee doing the job? If so, reward him; if not, get rid of him.

Only when the Bureau and its staff is accountable to the tribes will we see an effective BIA.

Wayne Williams, Business Manager, The Tulalip Tribes.

And then a postscript: "Enabling legislation will doubtless be required."

This is his statement that he asked be presented.

Commissioner Bruce. Thank you very much.

The next witness is Clarence Wesley.

STATEMENT OF CLARENCE WESLEY, SAN CARLOS APACHE TRIBE, ARIZONA

Mr. Wesley. Mr. Chairman, members of the Commission. My name is Clarence Wesley, member of San Carlos Apache Tribe in Arizona. San Carlos Apaches saw fit to have me serve them for 20 years, 10 years of it as chairman of the tribal council.

In one of the meetings I attended in Washington, D.C., in my early days on the tribal council. I heard a remark from one of the Government officials that more and more emphasis should be considered as their priority in the development of their natural and human resources. Also, I heard an expression that the Bureau was working themselves out of a job, with the hopes that qualified Indians will take over.

As you know, after long years, this has become a reality. Today we have many Indians in responsible positions and this has renewed my trust in the Bureau of Indian Affairs because I don't believe any Indian in that kind of position will sell their people down the river.

To this day, the San Carlos Apache Tribe is working to develop their natural resources as well as human resources. We are fortunate to have cooperation with our local Bureau people. Like other tribes, we don't have funds to go all the way with our development, although we are optimistic that with proper planning and proper justification, eventually we hope to obtain additional allocation of funds.

I shall not go into the details of all the potentials they have on the reservation because I am just speaking as an individual.

Practically all of the Government operations, including Indian Health Services, our educational systems are meeting their obligations, although like any organization from time to time they have gripes, but through proper consultation these gripes are settled without further trouble.

At one time the National Congress of American Indians went on record doing away with all area offices; instead, the administration at that time saw fit to add one more, area office, I believe this was in Oklahoma. So this is how they used to treat us back in the 1950's. Now things are looking better, especially when the Indians are being asked for their recommendations.

I believe the Indians here at this hearing have too many irons in the fire as to restructuring the BIA. Some of the comments are purely individual, like mine, but the expression of the various tribal councils is lacking; also, tribal resolutions. But I think this is where I am wrong because I have heard there are tribal resolutions being presented here at this hearing.

Now, back to area offices: To me, these area offices are duplications of services, redtape and buckpassing operation. I would suggest that authority and responsibilities be brought back to the reservation level where the problems are stacking up.

I trust that the Indian members of this Commission stand up for the rights of the American Indian and that they will not take any action that will hurt the American Indians.

Like I said, I am just an individual presenting my views as to reconstruction of the Bureau because I feel that preparation for better days should be made for a younger generation to come.

Thank you.

Commissioner BRUCE. Clarence, are you suggesting in that one statement that the agency offices at the local level be continued and that the area offices be phased out? Are you agreeing with the statements that have been made right along that the area offices be phased out?

Mr. WESLEY. Yes, that is right, that is the way I feel, and I think the reservation setup should be continued.

Commissioner BRUCE. Any questions?

Commissioner DIAL. Mr. Wesley, you have been involved with the BIA for a number of years, haven't you?

Mr. WESLEY. Fourteen years.

Commissioner DIAL. Fourteen years. Do you see the BIA operation—their entire programming, their relationship to Indians, just the general view—do you see things getting better or worse, as far as the Indian people go?

Mr. WESLEY. I think in our reservation it is better because we have better cooperation with the Bureau people and we have constant contact with various tribal operations. So I think things are better.

Commissioner DIAL. Things are getting better.

We have been listening here for the last 2 days mostly about the other side, things aren't so well as far as the BIA goes. Could you say something positive for the BIA, or would you mind saying it? I think really, if there is something positive that exists, they are due that credit. We have heard a lot of negativism here, and I'm not trying to defend the BIA, but we have heard the negative side here for a couple of days, and if there are some good points I think they ought to be brought out in the hearing. There must be something good. As someone has said, there is good in the worst of us. I am just wondering, if you care to elaborate on this. Don't feel that you have to.

Mr. WESLEY. Yes, sir, I think most of our development and what we are trying to do, the tribal council is trying to do, in working with the Bureau of Indian Affairs is constant consultation and cooperation. Of course, we have some differences from time to time, but through consultation we are working together. The chairman and the tribal council always expressed their needs to be cooperative with Government services, BIA, Public Health, what-have-you. That's why I say things are looking better at San Carlos.

Commissioner Dial. Looking better for your group. I suppose you travel quite a bit. Do you see among other tribes where the situation is not looking too good, you know, among other tribes?

Mr. Wesley. Well, I have heard some comments that things are looking up on other reservations. I didn't inquire to find out what really is at the bottom of this lack of cooperation or dissatisfaction with the Bureau operation.

Commissioner Dial. So you would not recommend that the BIA have a new Cabinet—excuse me, that we have a new department and that it be given Cabinet status, that it have a Secretary to head it appointed by the President, and so forth, like others have brought out here today?

Mr. Wesley. No, I believe the setup as it is now is satisfactory to me. However, like I have indicated, the area office should be abolished.

Commissioner Dial. Have you attended most of the meetings yesterday and today?

Mr. Wesley. Yes; I heard some comments here.

Commissioner Dial. Would you consider your report somewhat of a minority report here today?

Mr. Wesley. As I say, I am just an individual, so I think I am a minority, like the bottom of the totem pole.

Commissioner Dial. I appreciate your position, stating the way you feel about it; you don't have to talk the way someone else sees an issue.

Do I have time for one other point here, Commissioner Bruce?

Commissioner Bruce. Yes.

Commissioner Dial. It reminds me of the lady who sent her son out on the farm to pick up some wood—no, to saw some wood. She said, "Son, go out and saw some wood." And he went out and returned.

She said, "Son, did you saw the wood?"

He says, "No, Mom, I didn't saw the wood."

She said, "Why didn't you saw the wood?"

He says, "Well, I didn't see it."

She said, "Yes, you did see it because I saw you see it."

He replied, "Well, maybe you saw me see it but you sure won't see me saw it."

So you don't have to see things just like everybody else. Thank you very much.

Commissioner Bruce. Thanks, Clarence.

Commissioner Dial. You can strike that from the record if you care to.

Commissioner Bruce. Are you ready?

STATEMENT OF THEODORE SMITH, HAVAPAI APACHE TRIBE

Mr. Smith. Yes. Ladies and gentlemen of the American Indian Policy Commission, my name is Ted Smith. I belong to the Havapai Apache Tribe, former chairman for the tribe. I have retirement from the Bureau of Indian Affairs after 20 years, and with the army time, and so forth, I had 30 years.

By being on both sides of the issue——

Commissioner Dial. Repeat your name again. I didn't get it.

Mr. SMITH. Theodore Smith.

Being on both sides of the picture, of the tribal government and also with the Bureau of Indian Affairs, I would like to comment. This will be an oral type of a statement, it is not a written statement because it is coming from an individual now at this point. But I would like to mention some things in the Bureau of Indian Affairs. I have seen it, been in there watching it for many years.

From where I have sat and where I have seen I am not against the Bureau of Indian Affairs. I think it has a purpose. But in order to bring this Bureau of Indian Affairs and see that it is working right and see that they accomplish what they are supposed to be doing—there are many faults in the Bureau of Indians Affairs—the recommendation that I would like to make is that a committee be established to review all phases of the Bureau of Indian Affairs, such as education, land management, law and order, personnel, the area directors, assistant area directors, and every phase of the Bureau of Indian Affairs; a committee made up of Indians who are qualified in those specific fields, and see that the Bureau does its work.

As far as the area office is concerned, as I see it, it should be a specialty, not as the people that run the reservations, specialized in a field but qualified specialists, not just anyone. I have seen time and time again, with the personnel of the Bureau those who were not qualified, using the spoils system, and a lot of their work is incompetent, and we need a qualified staff to do this work. They have put people in those positions that shouldn't be there.

This is what is corrupting the reservation; it does not help the reservation. Their expertise is poor. You need somebody there with experience, not just anyone that they pick off the street or pick out of a college, you have got to have experience.

A reservation is a business, it is really a business. You need people in there, in the administrative end of the operation, in the phase of accounting, and management. These are most important if the reservation is going to succeed. This is what it takes to make a reservation.

Being a businessman, I know what it is. We talk about budget in the Bureau of Indian Affairs. I was involved in the band analysis. I know what went in there. There is nothing but salaries, really nothing to help Indian people at all. It is salaries that were made for superintendents, area directors, assistant area directors—these all went into that band analysis—clerks, whoever is involved there. But it never has helped Indian people.

I would like to recommend, any time, a reservation establish a budget for themselves, not according to what the BIA has established. If they want to keep a superintendent, fine; but if they want an administrative officer, fine, but enough money to run the reservation. A budget is not a cut-and-dried type of thing. A budget is made by people of its own priorities, not trying to help the Bureau to run its agency but to help the people there themselves.

Another thing that I would like to touch on is the BIA school. They have boards from the reservation, but they are not qualified. They go to these schools and talk to the superintendent, that is about as far as they go. But if it is a qualified group or committee it is established in the BIA or a committee established by Indian people, going from school to school, investigate—and this is lacking, it runs by itself and the people don't seem to get anywhere.

Books are not the right type of books that they should be learning, and things like this happen, and the lack of qualified teachers.

So I would recommend that a committee be established to investigate every 6 months, 5 months, whatever it takes, but a committee established to investigate the Bureau of Indian Affairs boarding schools and day schools.

Commissioner DIAL. What do you mean by qualified teachers? Would you elaborate on that?

Mr. SMITH. A qualified teacher—we have in the Bureau of Indian Affairs teachers, in a lot of cases, but that don't have their master's degree, they have a bachelor's degree; but either a master's degree or even higher. So they hire people, just people looking for jobs, they are not qualified at all. This is what I mean by qualified.

Also, the personnel of the boarding school, they must be investigated and see that the proper people are hired.

The other thing I don't think anybody has touched on, which I hope we will be able to do in the economics development, at the meeting sometime, arts and crafts. Nobody mentioned arts and crafts. It is the biggest business in the United States and it is the biggest fraud against the Indian people and it runs into billions and billions of dollars each year. Nobody mentioned that.

But something should be done in the Bureau of Indian Affairs to establish some line items to help Indian people to fight all these junk jewelries that are established and coming out of Mexico, Taiwan, places like that. Nobody mentioned that. But that is the sole income. And if you can just sit down and realize how much of the livelihood of the American Indian people comes from arts and crafts. But the BIA has very little money in the arts and crafts field. Interior has an arts and crafts board. They have a budget of $720,000 a year.

Where does that money go to? They have a huge staff. What do they do for the American Indian people? Nothing.

There is an organization called the Indian Arts and Crafts Association in Gallup, N. Mex. They have a budget of $72,000 a year. They have done more for Indian people than the Arts and Craft Board in Washington, D.C., which has a $720,000 budget.

So, really, I think with the limited amount of money that is involved you could do a lot. You don't have to have a lot of money but use it in the right areas, make it effective. With a $72,000 budget this Indian Arts and Crafts Association down in New Mexico has sued other companies for billions of dollars. We sit here and watch this thing fade away and it is hurting Indian income on a lot of reservations, yet back in the Southwest area this is our sole income.

The next thing I would like to talk about—well, I mentioned budget of the band analysis. I have already touched on that. I am open for any questions.

Commissioner BRUCE. Ted, for the record, would you tell us what positions you held in the Bureau?

Mr. SMITH. In the Bureau I was the cost accounting supervisor in the Finance Department. I did the operating statements. I did the cost accounting. I was in charge of the cost accounting section.

Since touching on that, the big monster they have in Albuquerque, it is not really helping the Bureau, it is not helping Indian people at all.

Mr. GOETTING. Where was your job?

Mr. SMITH. It was in the Phoenix area office. I made those operating statements myself, and I couldn't even understand them. And yet it is coming out of the Albuquerque office, going to the area office and trying to help Indian people on the reservation. It can't be done. It is the biggest monster that should be done away with and use another system. A lot of the commercial data processing is much better and quicker and faster.

Any other questions?

Commissioner BRUCE. Is it your suggestion that each area office be investigated?

Mr. SMITH. Yes.

Commissioner BRUCE. Every 6 months?

Mr. SMITH. Every 6 months.

Commissioner BRUCE. Let me just say a word of comment about the Indian Arts and Crafts Board. Unless it has changed since I was Commissioner there, the BIA has no control over the Indian Arts and Craft Board. We tried to change it. We tried to bring it directly under us. The Bureau had no right to appoint Board members; the Secretary appointed Board members. We were trying to get that changed so that Indians would serve on that Board.

I agree with your statement about the craft business and some of the things that are happening there. I think that the Economic Development Task Force is going to get into that. There will be some investigations made. Of course, we have a lot on the record about what is happening there, also.

Any other questions?

Commissioner DIAL. Yes. Mr. Smith, you mentioned something concerning establishing a committee to review all phases of the BIA, a study group to see what is wrong with the BIA and its operation, and so forth.

Now, of course, it is pretty difficult to get an unbiased group, I suppose, to make this study. To get someone out of the Government, they are probably going to give a biased report to the BIA, and from what I have heard here for the past couple of days it might be difficult to get an unbiased report from Indians. Yet I know much of what has been said is true.

How would you feel about the Government hiring someone to make a study similar to the Merdahl Report on Race Relations following World War II, sponsored by the Ford Foundation. I think it was the Ford Foundation. The Merdahl report, someone who came from some European country and made something like a 2,400-page report of the race relations that exist here in the United States, which was supposed to be pretty much an unbiased study.

I throw this out, I never thought about it until you spoke about such a committee, but right off the top of your head what do you think? Suppose someone came from Germany, or Norway, we'll say, some real experts who could study the situation of the BIA—what it is doing, what it is supposed to do—and there are such people, who can do that in a few months, could understand the whole situation and just see what is going wrong. Would you respond to that?

Mr. SMITH. Well, study, yes, you can play that out for quite some time, but take, for instance, Walter Cronkite or anybody like that can whip it out in a week's time, much effective, but I don't like too much studying. But you've got to have some basis to go by. In other words, you can't say, "This is ineffective," but you've got to have some document. I don't like a long study. A study maybe in a months time, or something like this, would be more effective than dragging it on for 2 years or something of that nature. But a committee that will study this and then make recommendations to either the Bureau of Indian Affairs, to change its system, or to anyone that has the power to do something about it.

Mr. GOETTING. Let me follow that point a moment. When you mentioned a committee to make these reviews, of course, that is what this Commission is for at the congressional level. One thing I was interested in, Congress has an oversight responsibility to determine whether or not administrative activities are actually conducted in accordance with congressional authority.

Would it be your thought that a permanent committee in the Congress would be established to perform these oversight duties and go around to the offices every 6 months? You mentioned 6-month intervals. They could review offices on a perpetual basis, but just a short review to check up on the activities of whether or not they are following the procedures and policies. Are you speaking of something of this sort from the congressional level that would have the authority to impose its findings rather than someone reporting to—in other words, I can't investigate you, then give you my report and expect you to comply. I wanted to clarify the level at which you thought this committee might serve.

Mr. SMITH. Well, you know, I haven't really thought too deeply on this type of thing. I believe you can come up with suggestions where it should come from.

Mr. GOETTING. This Commission is supposed to be studying by committees or task forces, as we have called them, made up of Indian people, experts in the field, to do this kind of thing on this one job. To the extent they wind up with a recommendation for a permanent established committee from Congress or somewhere else, this might be in the mill.

Mr. SMITH. I would go along with that idea.

Commissioner DEER. You have mentioned your dissatisfaction with the operation in the Albuquerque office. What would you recommend for change?

Mr. SMITH. I think that most tribes are doing a lot of contract work, and the Albuquerque data processing is really far behind that of some of the commercial data processing. I believe if they switch over to the commercial people with know-how, IBM, so forth, they would do a more effective job than Albuquerque themselves. It is kind of a hit-and-run type of thing. I think if they can switch over to that particular system it would be more effective than the Albuquerque office itself. It is not effective at all.

Commissioner DEER. Why?

Mr. SMITH. Well, as I mentioned, the operating statements I used to make, and it is still the same system that they are using, out of Albuquerque, just in a long-line type of thing. Ours used to be up and down but theirs is across. We made these operating statements, the same as it is now in Albuquerque. We couldn't understand—well, I could, but some of the people working in the field couldn't understand what their balances were, as far as cashwise is concerned, how much money they had left, what had they spent. Those line items in that area, some are expenditures that were from last year that were included in those totals.

So I think a new system could be established and, as far as I can see, the Albuquerque office is not capable of doing that. I know they have tried and tried again. but it is not working. It is not working for the Federal Government or for the Indian people at all.

Mr. GOETTING. Let me ask a question on that, because we are looking at the system under the BIA management study. Are you saying that the system they are using is outmoded and old and ought to be modernized?

Mr. SMITH. Right.

Mr. GOETTING. Are you saying the equipment is old and outmoded and ought to be modernized?

Mr. SMITH. Right.

Mr. GOETTING. In other words, the financial statement ought to be modernized and the equipment, like IBM, or whatever, data processing, ought to be modernized?

Mr. SMITH. True.

Commissioner DIAL. Ray, I believe you worked with the BIA for some time, didn't you?

Mr. GOETTING. Not very long.

Commissioner DIAL. With the many studies that have been made of the BIA, and I imagine they would almost fill this room—and I am serious about this—what went wrong? That is why I mentioned this European study. It sounds stupid, but I want to know what went wrong? What went wrong with the recommendation? Why didn't it work? I'm sure there are recommendations by the thousands for change, and yet for some reason it didn't come about.

I think we probably recognize it needs to be changed, we recognize this is wrong, and yet no one seems to be doing anything about it. Why?

Mr. SMITH. I really couldn't answer that type of question because it is more in the technical field. What went wrong, based on my opinion, they are not qualified. They are not qualified employees because they got them from the different agencies. They have moved them in that area. I didn't go but some of the rest of them did go. Their qualifications weren't that. They are not capable of data processing, they are not familiar with the system. That is the reason—my own opinion—that is the reason why it was a complete flop.

Commissioner BRUCE. Any other questions?

Commissioner DIAL. That is all.

Commissioner BRUCE. Thanks a lot.

John Ranier.

STATEMENT OF JOHN C. RANIER, TAOS PUEBLO

Mr. RANIER. Thank you. Mr. Chairman. I realize you are trying to wind up the hearing this afternoon, so I will skip all the details of my testimony and refer to page 13 of the observations that I have made regarding the working relationships in Indian affairs.

Commissioner BRUCE. John, excuse me. Will you give your title for the record?

Mr. RANIER. My name is John Ranier. I am a Taos Pueblo Indian. While not testifying in any official tribal capacity, I do have an experience record in the field of Indian affairs. I have taught school and served as a principal. In addition, I am the past secretary, vice chairman and chairman of the All Indian Pueblo Council; I have served as an executive director, treasurer and first vice president of the National Congress of American Indians. I have been vice chairman of the New Mexico Commission on Indian Affairs before becoming executive director and recently, as a Presidential appointee, I served as chief member of the National Council on Indian Opportunity.

Commissioner BRUCE. Thank you.

Mr. RANIER. May I proceed with my comments?

Commissioner BRUCE. Yes; proceed.

Mr. RANIER. My involvement at the various levels of working relationship in Indian affairs leads me to draw your attention to the following points with a hope that you may be able to correct them.

1. Congress has not appropriated adequate funds for Indian program needs. However, it can appropriate funds very much on the basis of the information furnished. BIA must accept much of the responsibility for inadequate funding. For example, for the fiscal year 1975, when the actual need for higher education funding was for 25,000 students at a cost of $107,300,000, it only asked to fund 14,000 students at a cost of $25,784,000.

Later, as a result of Indian testimonies, Congress asked BIA for its views on the use of $18,768,000 and its reply was its programs (meaning higher education assistance) were meant to supplement, not supplant other sources available to the student, meaning USOE aid, State assistance, and tribal programs.

Our position is that scholarship grants are an entitlement. One of the reasons why the non-Indian assumes that Indians are well cared for results from news reporting that Congress has passed another bill with so much money for Indian services, not realizing that these are just authorizations and not actual appropriations.

2. Congress should do what it says it will when it enacts bills; for example, in the amendment to title IV, by act of Congress, 1974, "Fellowships of Indian Students," sec. 423; the "USOE Indian Education Commissioner is authorized to award not to exceed 200 fellowships to be used in graduate and professional programs." To date, Congress has not appropriated funds for the approved 200 fellowships at a cost of $2 million.

While we seek full support of the present pending $1.2 billion Indian health bill, one wonders if Congress will appropriate funds as fully as so generously stated in the bill.

3. With the exception of the Hon. Frank Zarb, now the beleaguered head of the Federal Energy Administration, OMB, out of its ignorance of actual Indian needs, must accept responsibility for inadequate funding of Indian programs. It wields and exercises its authority too liberally when it comes to slashing BIA-recommended

Indian budgets. OMB should be required by law to have Indian involvement and assistance before recommending Indian budgets.

4. Most people, including many Indians, believe the Commissioner of Indian Affairs is the sole authority in Indian affairs. Yet, if his decision is of slight significance, he must have authority and approval from the head of the Department of the Interior before he can announce his decision.

5. The Department of Education is the recipient of the biggest bulk of BIA appropriation. Yet, the head of Indian education suffers with even less authority than the Commissioner of Indian Affairs. Other noneducation agencies within the Bureau are allowed to prey on education funds thus leaving the education head ineffective.

6. The complexities inherent in the Federal Government, embraced with an array of statutory authorities and administrative inventions appear to be more pronounced and applicable in BIA. An analysis and policy coordination in order to clarify and simplify the working machinery is in order.

For example, in its overzealous attempt to decentralize the Washington offices, all personnel except the head of education have located in Albuquerque, N. Mex. Now the Education Department spends more money and time by constantly drawing on the personnel from Albuquerque. The Indian leadership, realizing the difficulty of trying to do business at two ends have passed a number of resolutions in national Indian conferences demanding that the entire Department of Indian Education be relocated in Washington, D.C., but power politics are being employed to remain in Albuquerque.

7. By dividing the responsibilities of Indian education among the States, private schools, BIA, and U.S. Office of Education, whether by purpose or by inadvertency, erosion into the Indian's special relationship with the Federal Government is being accelerated. No matter how many different avenues are used to finance Indian education, it is all Federal tax money and since Congress created the Bureau of Indian Affairs to be responsible for Indian education, much confusion and overlapping of service would be limited if BIA had the sole responsibility.

8. Another problem which is becoming a serious concern is the number of people who are claiming Indian ancestry in order to benefit from the services in schools and other areas. This Commission should recommend legislation clarifying who is entitled to services and benefits and on what basis.

9. If Congress continues to provide block grant funding to institutions, which appears as a form of aid to the universities to us, the higher education branch of BIA should be required to insist on commitments beneficial to the Indian students. For example, universities and colleges with Indian studies programs, Indian clubs, have lower dropout rates than those who do not have any program.

10. Institutions with significant Indian student enrollment should be required to commit themselves to employment of Indians in the faculty and counseling departments.

11. There is serious concern over the relationship between BIA and the U.S. Office of Education. Suspicion, if not fear, persists that BIA educational programs and grant assistance programs are unneces-

sarily dominated or manifested by the administrative policies with the U.S. Office of Education.

In summary, the rapid and continuing increase in population and the accelerated development of human and natural resources, the need for preservation of energy, water, and lands requires that the talent of all American Indians be developed to the fullest extent. The major point in my testimony is to indicate the dire need for professionally trained Indian men and women who can and will be the future leaders in tribal and community affairs.

The present Indian graduate students are the vanguard. An increasing number of master's and Ph. D.'s and lawyers going into practice means the upgrading of Indian education at all levels, as well as living standards and service opportunities on reservations and in cities.

Commissioner BRUCE. That is excellent testimony, John. Were you indicating specifically that all of these education activities be centered under the Education Department in the Bureau?

Mr. RANIER. It is my understanding that Congress created the Bureau of Indian Affairs to take care of the services for the Indians because of the special relationship between the Indian tribes and the U.S. Government. Therefore, it is my belief that instead of sending the Indian student to all categories and agencies to seek funding for his training, money should be appropriated and turned over to BIA to disburse funds as needed by Indian students.

Commissioner BRUCE. Any other question?

Commissioner DIAL. I have one or two. Go ahead.

Commissioner DEER. You have mentioned the request for inadequate funding for scholarships by the Bureau. Would you comment on how this could be solved?

Mr. RANIER. Yes. In the bulk of my testimony I said that the Bureau of Indian Affairs does not have an official policy of supporting Indian men and women who want to do their studies for their master's and Ph. D. degrees, and they have not sought funds from Congress to support these men and women, and I believe that in order to recognize the increasing need to assist these graduate students we ought to have a line item in the appropriations to take care of these needs.

Commissioner DIAL. Mr. Ranier, first of all, I would like to commend you on such a fine report and all of the good work you have done over the many years. I know you are familiar with many of the scholarship programs and some of the problems that exist for some of the Indian people. What do you recommend for some of these cases that I have in mind. I recently read, I believe, one of your letters to a student. What would you have in mind? What would you recommend? You know, some of the programs that existed, say, in law, are no longer available. What would you recommend for such students?

Mr. RANIER. Well, of course, in our work, when we contract with the Bureau of Indian Affairs we are required by the terms of the contract to recognize a person who is one-fourth or more of Indian blood coming from a federally recognized tribe. But that is the extent we can help anybody right now. But in the past we have had some funding from ONAP, OEO, and we were able to fund many students on that basis, but we no longer have the funding from that source; although we would very much like to help all who apply to us, we are restricted on that basis.

Commissioner DIAL. Do you know of any programs, say, in law for nonfederally recognized Indians today, any scholarship help?

Mr. RANIER. No, sir, except the scholarships that the individual institutions themselves offer as scholarships.

Commissioner DIAL. I am sure that when this final report goes to the Congress that there will be something in there if it is nothing but a minority report coming from Adolph Dial, that nonfederally recognized people have a little showing, urban Indians have a little showing, yet I do not feel that they deserve the same position as Indians who come under the Bureau.

Do you care to comment on this? What would be good, if anything? How could they deal with this? I can see it becoming a continuous fight if something is not done. The nonfederally recognized people I come in contact with are primarily concerned with education and scholarships. Among the Lummi people that is basically what they are looking for. Thanks for your program, you were at one time able to get five or six lawyers who are working now, and that is good, but that is no longer available.

Mr. RANIER. That is right.

Mr. DELORIA. Mine, too.

Commission DIAL. Yes, both of you, thanks to all of you. That is paying off and the boys are doing a good job, and I want to bring this out for the record. Maybe you don't want to comment on that, but I can't sit here and not speak to this issue as a nonfederally recognized Indian. Yet I feel this is a Task Force 3, is what I want to say, and I don't want to get into this because it really belongs to Task Force 10. So we will just pass it up and move on.

Mr. RANIER. I don't mind making a reply because we are so short of funds and we have such a huge backlog of people who want to pursue their studies for higher education, that we don't even have time to think about what the other people might face up to except to acknowledge the fact that the U.S. Office of Education has its grant program to which these other people are entitled to apply. Since there is a special relationship between the Federal Government and these Indian tribes, that is where we are concentrating at the present time.

Commissioner DIAL. Thank you very much.

Commissioner WHITECROW. John, I want to apologize for not being here for your entire testimony. Perhaps you have already covered this in your testimony: But do you see any relationship in establishing an income level for higher educational opportunities for youngsters before—in other words, do you see the possibility of establishing an income level, you know there are some programs that must have an income level, based upon treaty and trust responsibilities of the Federal Government?

Mr. RANIER. The Bureau of Indian Affairs had a special training program connected with the Universities of Harvard, Penn State, and Minnesota. They had 159 Indians involved in the program. When they made the assessment of the program itself they made a determination—it is stated in my report—that just a very small number of Indians were making over $20,000 at the time they went into training. After their training program there were, I think, 34 who were making over $20,000 a year, plus having positions where they made responsible decisions.

So, from that, you can gather that it is very important to encourage our Indian men and women to continue at the higher education level.

Commissioner WHITECROW. Yes, but in order for them to be eligible for scholarships, do you think that income levels should be established to make those youngsters eligible? In other words, we have got some people who have indicated they cannot become eligible because their parents make just a little bit too much money, $2 or $3 over the maximum.

Mr. RANIER. Well, if they are one-fourth or more, my understanding is, they are legally entitled to basic help.

Commissioner WHITECROW. With no income requirement?

Mr. RANIER. Right.

Commissioner BRUCE. Any further questions?

Commissioner DEER. Could you explain why you think the Bureau does not ask for a sufficient amount of scholarship money?

Mr. RANIER. Will you repeat the question, please?

Commissioner DEER. Yes. In your statement you mentioned that the Bureau requested a certain amount of money but actually the need was much greater.

Mr. RANIER. Yes. There are several factors involved. The field officers from the area offices will make accurate assessment of the needs but they may be instructed from the area offices, as well as from the central office, to not really apply for the number of students who would be entitled to the help. Also you face OMB. OMB tells the Bureau how much it can have, and therefore this cuts down on the number of students who can be helped.

Mr. DELORIA. You mean that the area scholarship officers are instructed by the Bureau of Indian Affairs to submit deliberately incorrect information and estimates of the demand for scholarships?

Mr. RANIER. I said the officials of higher education in Indian areas make the proper requests, but when the request gets up higher, as close to a budget cut as possible, they are reduced.

Mr. DELORIA. It is reduced?

Mr. RANIER. Yes. For example, in my testimony here, and Mr. Goetting is knowledgeable about this fact, at the time when there was a need for 25,000 Indian students, they applied for only 14,000.

Mr. DELORIA. Was the Congress made aware that there was a need for funding for 25,000?

Mr. RANIER. We appeared before a congressional hearing——

Mr. DELORIA. I mean by the Bureau of Indian Affairs.

Mr. RANIER. No.

Mr. DELORIA. Congress was told by the Bureau of Indian Affairs that the need was for 14,000 students?

Mr. RANIER. 14,000, yes.

Mr. DELORIA. On instructions of the Office of Management and Budget?

Mr. RANIER. Probably, yes.

Mr. DELORIA. So then that means that the Bureau of Indian Affairs in answer to a request from Congress as to the scope of the need is giving Congress incorrect information. Is that right?

Mr. RANIER. I believe so, yes.

Mr. Deloria. The distinction I am trying to draw, and correct me if I am wrong, is that it is one thing for the executive branch to tell Congress they are only asking for a certain amount of money for certain purposes; it is quite another thing for the executive branch to tell Congress that they are only asking for a certain amount of money because that is all the need there is.

Mr. Ranier. That is right.

Mr. Deloria. One is a policy decision, the other is a lie. Is that a distinction that is relevant here?

Mr. Ranier. It amounts to that.

Mr. Deloria. Thank you. I just wanted to get that clear. I have another question, Mr. Ranier, and that is: The Indian students who attend graduate school or other Indian students who attend college, in your knowledge of this field, upon completing their education do they disappear into the mainstream of American society?

Mr. Ranier. One of the requirements in helping the Indian students is for them to make a career statement, and invariably the student puts down on the paper that when the training period is completed, he or she hopes to be involved in Indian communities or tribal affairs. But, in actuality, when they graduate, even though they have their Ph. D.'s or master's, they can ill afford to go into Indian communities or tribal communities because so often so many tribes and communities are so poor they cannot pay the salaries that these highly skilled individuals command.

One of my recommendations in my testimony was going to be that the Bureau should be required to have an internship program sharing the cost of the person's salary between the tribe or Indian community and the Federal Government so that these people who want to work with Indians can have that opportunity.

Mr. Deloria. To your knowledge, is there any attempt at long-range planning on the part of the Bureau of Indian Affairs coordinating graduate and vocational education with tribal development plans so that tribal engineers and agronomists and foresters and public administrators are being trained to take over tribal development?

Mr. Ranier. No, sir; I am not aware of it.

Mr. Deloria. You are not aware of it?

Mr. Ranier. No.

Mr. Goetting. John, I would like to see us put in the record some of the information following up a little detail in regard to what Sam was asking about in regard to the correction of information going to Congress.

One of the calculations that I understand the Bureau uses is the fact that when they say how much money might be needed they deduct from that estimates of the amount students would get from other sources—USOE, family support, other scholarship programs, so on—that they force the student to go to various places, and then if they don't get enough money they would consider an application to supplement that with BIA in order to furnish the amount required for college.

There are some figures, as I understand it, in the Bureau showing those estimates of the amount they use on those budget things. We can get that out of the record. How about the actual use of the money, isn't that also available? Don't we have information that says that they have never received the amount the Bureau has estimated for those purposes from those sources?

Mr. Ranier. The chart that the Bureau has, I think there are 11 or 12 steps to discourage the Indian student from applying to the Bureau before going to all these other areas. This is because the congressional appropriation for higher education support is so small that the Bureau practically forced the Indians to apply to these various places before going to the Bureau. On the other hand, your Indian student, thinking that he is entitled to these helps, will go to the finance officer of a university or college, and the finance officer will tell him "You have the BIA, it provides for you. We are going to take care of the low income group people before we can take care of you."

Mr. Goetting. So this is counterproductive to the process the Bureau uses?

Mr. Ranier. Yes.

Mr. Goetting. So they get hassled back and forth.

The other point I want to ask about that you mentioned. Do you think the real question in the Bureau is the fact that education is an entitlement to Indian people rather than a privilege or a supplement?

Mr. Ranier. There is no doubt in our minds that it is an entitlement, and the Bureau is now, I think, finally coming around to saying that.

Mr. Deloria. Mr. Ranier, do you have any idea, or could you submit for the record later if you don't, the percentage of the Indian population under the age of 18 nationally?

Mr. Ranier. I think it is pretty well known that over half of the Indian population is made up by people—what is it, I can't remember—it is a very low young figure, but over half of the Indian population is in that category.

Mr. Deloria. So that means someone who is unable to secure a scholarship assistance this year, when he goes back next year the line will be longer. Is that a fair assumption?

Mr. Ranier. Yes, sir, very fair. At the graduate level alone there is supposed to be a backlog between 2,500 and 3,000 Indians who want to do graduate studies, but there are no funds whatsoever.

Now, in my statement there we have a table showing the increase by percentage, on page 5.

Mr. Goetting. I don't think we have that.

Mr. Ranier. Let me read you the percentage of increase of the students. For an 8-year period, in 1967 there were just 1,271 freshmen, but by 1976 there were 9,000 freshmen students, an increase of 272 percent in 8 years. And then it goes down to the senior level, but what is very interesting, I think, is the graduate people. In 1967 there were only 13 people pursuing studies at the higher level, but by 1975 there are 850 involved in the graduate studies, an increase of 748 percent over an 8-year period, not taking into consideration that there is a backlog of these people I mentioned awhile ago.

Mr. Deloria. I think it is safe to assume that older students are more likely to be married and have a family. Do you have an estimate of the cost of scholarship funding for a student, say, with a family of four, for 1 year?

Mr. Ranier. Mr. Deloria, this depends very much on the discipline and the location of the school. Recently we established figures for the far east, the southwest and the far west.

Mr. DELORIA. Hong Kong and Singapore?

Mr. RANIER. No; but there is a considerable difference. On the average——

Mr. DELORIA. What is the range?

Mr. RANIER. The range for a single student now is between $4,000 and $5,000, and for a married student with dependents it will go up from $7,000 to $8,500. But if you are in medical school, even if you are single, your costs will be $10,000 to $11,000 a year.

Mr. DELORIA. Do you have any idea of the cost per student of community colleges on Indian reservations, that is, not including the cost of those colleges that are building and constructing new plants, the schools that are using existing facilities?

Mr. RANIER. I do not have the information on that at all, although in the block funding of the higher institutions we did some research and for the three universities I mentioned awhile ago the per capita cost was $1,509 a year per student, whereas in our organization our per capita cost is $420 per student per year.

Mr. DELORIA. You mean that is for administration?

Mr. RANIER. Yes; overhead costs. In my detailed statement I point out the fact that it is better business for the Government to contract with Indian organizations to administer these funds than the block grant system.

Mr. DELORIA. Would you say it is a fair statement, then—in terms of strategy for achieving Indian self-determination and achieving development of Indian communities—to say that the best investment in this area that the Federal Government could make would be to provide sufficient funding for higher education for students wishing to attend colleges off the reservation, and also sufficient funding for community colleges for those students who, for one reason or another, would prefer to attend school on the reservation?

Mr. RANIER. In my testimony I point out my belief that in supporting a student the Government is making an investment, and the studies with the G.I. benefits show that the money spent by the Government, the G.I. is paying 16 times back the help that he has received from the Government.

Now, in my own case, I borrowed $800 to complete my B.A. work, and this year alone I have paid 10 times in taxes. So I am sure that all these Indians who get that kind of training can command salaries so that they are not only more active, more civic-minded, and more alert participants in their communities but also they contribute a heck of a lot to the tax program of this Government.

Mr. GOETTING. Let me follow up on one point I think you made in terms of your item No. 9. You said block grants to institutions ought to be looked at a little more carefully or eliminated entirely. Why, in your opinion, would it be better to operate through the Indian organizations than to give grants for education to educational institutions?

Mr. RANIER. I think one of the results of this Government funding is that the institutions are making fantastic overhead charges. Charges range now from 12 percent to 48 percent, and whereas in the Indian organizations I think they are very reasonable, and in our case we feel that we give absolute freedom to an Indian student to select his own school and go to that school, where in the block funding he feels required to go to school because BIA has a contract with Harvard or Princeton or somewhere else.

I think one of the best examples of what could be done with Indian involvement in an institution is at the University of New Mexico. I am not saying that because Sam Deloria is on the task force, it really is a genuine comment.

Mr. GOETTING. But the program, actually, though, does not require people to go to any particular school, they can go wherever they want, is that right?

Mr. RANIER. I think so, yes. They just make the disbursements and in fact, they recommend schools where the student can benefit.

Commissioner DIAL. Mr. Ranier, one or two short questions. It seems the medical schools are crying for Indian students today. Is this true? Are there funds available for qualified Indian students, reservation or off reservation, who want to attend medical school?

Mr. RANIER. There is a great demand for medical students. However, because of the high cost only a very few could be supported. As I said awhile ago, the cost is between $10,000 and $11,000 per student per year.

Commissioner DIAL. I know. But I find them even soliciting. It seems to take care of all the costs—total costs per student—he doesn't have to put up anything. Maybe special programs. I was wondering if you could tell us something about this? I don't know much about it, only I know some people who are involved in it and I know they don't have any money, they say it is taken care of.

Mr. RANIER. In our program, we get the graduate school catalogs and we know what the early budget will be. We ask the student to furnish his resources and we subtract his resources from the total cost of the budget and the difference is what we try to take care of.

Commissioner DIAL. Is there any similar program, other than a program for medical students, where they are really trying to get Indian students involved? Do you know of any? I can't think of any other program.

Mr. RANIER. I am not aware of it.

Commissioner DIAL. A student leaving your reservation today and going into undergraduate study: What would his BIA scholarship provide for him in the way of dollars?

Mr. RANIER. It is never enough.

Commissioner DIAL. It is not?

Mr. RANIER. It would be unrealistic for me—I am not involved at the undergraduate level, so I wouldn't be able to give you a correct answer.

Commissioner DIAL. It probably would be around $1,000, maybe?

Mr. RANIER. Could be more, or less.

Commissioner BRUCE. Excellent testimony, John. We appreciate it. Thank you very much. I am suggesting that we refer this report of yours to Task Force 5, the education committee. Also, you only have a couple of copies.

Mr. RANIER. I had five.

Commissioner BRUCE. Have you? I think you left out in this report a lot of very important information.

Mr. RANIER. Yes; because of the time element I thought I would just go to the ones that I wanted to mention.

Commissioner BRUCE. Very excellent. Thank you very much.

We have a gentleman now who wants to catch a plane, wants a few minutes to testify, William Basque.

Mr. DELORIA. Mr. Chairman, while the next witnesses are taking their seats, I would like to advise Commissioner Dial that the Office of Education funds, the Council on Legal Educational Opportunity—the CLEO program—which should be providing services to Indian law students not eligible for BIA. I can give it to you later, but I did want to get that on the record.

Commissioner DIAL. That is what I wanted to know.

Mr. DELORIA. And the fellowship program of the Office of Education, when it is funded, will be available.

Commissioner DIAL. I wanted to get that. Thank you very much.

Mr. TONASKET. Mr. Chairman, before the next witness, I would like to request that I introduce the statement for the Swinomish Tribal Community of the State of Washington, for the record. They had to leave. They thought they would get on earlier. If there are any questions or additions that the Commission would like in addition to this, they would be more than willing to supply whatever is needed.

Commissioner BRUCE. Is that through Marvin Wilbur?

Mr. TONASKET. Yes: Marvin Wilbur.

Commissioner BRUCE. Thank you.

Will you state your name?

STATEMENT OF WILL BASQUE, BOSTON INDIAN COUNCIL

Mr. BASQUE. My name is Will Basque, a Micmac from Shubenacaeie Reservation in Nova Scotia. I am presently the president of the Boston Indian Council.

To my right is Mr. Bruce Davies, who is a member of my staff, and to my left is Steve Charleston, who is also a member of my staff.

Let me begin by saying I appreciate this opportunity to speak to you on behalf of the Indian people of Boston. As president of the council I represent some 4,000 native people. In recent years it has become fashionable to label these people with a phrase we call "urban Indians." But if our experience in Boston has proven anything it is this, that there is no such thing as an urban Indian. There never can be. Those two words and the reality they represent are mutually exclusive, they cancel each other out and they are a contradiction in terms.

In every way the life of the city and the life of Indian people are in conflict. For those of us who work at the Boston Indian Council we see that conflict every day. We see it in our unemployment rate of 55 percent. We see it in a massive epidemic of alcoholism among our people. Some 20 percent of our people are classified as skidrow alcoholics.

We see it in the schools where our children are normally denied their cultural heritage, they are openly attacked by rival gangs of blacks and whites who are now waging an undeclared race war in the streets of Boston. But most of all we see it in the faces of our people. Those faces speak more eloquently of the fear and frustration created by city life than do all the statistics I could cite to you. They point to one of the critical problems faced by the native people of Boston.

This is the problem of numbers versus people. Because of State and Federal nonrecognition, we are treated as numbers, as statistics, and not as a people. The reality of life for Indian people in eastern cities such as Boston can best be described as a cultural vacuum. We exist in a constant state of limbo, in a kind of cultural schizophrenia. Our people have a split personality. On one side we know who and what we are and we know that we are Indians. On the other side we are forced to live in a society that tells us that we do not exist, that we have disappeared.

No other racial or ethnic group is forced to live under these conditions, and yet no other racial or ethnic group has a claim to special status like the Indian people. We are not just another minority, we are not a color. We are a culture. We are the native people of this continent.

In a city like Boston which now proudly proclaims itself as the birthplace of freedom for this Nation, Indian people are held in a cultural slavery. We have no right to express our Indianness, our traditions or our values. We have no right to hear our history, our culture taught in the public schools. We have no right to approach the Federal Government for the goods and services it promised so strongly 200 years ago.

When Boston, Mass., was little more than a large town, when the European immigrants were locked in a life-and-death struggle between the colonists and Great Britain, the Indian people of New England held the future of this Nation in the palm of their hands. I am speaking of the four tribes known as the Wabanaki Confederacy, the Penobscots, Passamaquoddy, Malecite, and my own nation, the Micmac. We were the balance of power in the American Revolution, we were all that stood between the farmer-soldiers gathered around George Washington and the full weight of the British Army stationed in Halifax, Novia Scotia.

No one understood this better than the rebel leaders themselves. On February 17, 1776, the man who is now called the Father of this Nation came to the Passamaquoddy with a pledge of friendship. He called it the chain of friendship which was to remain unbroken if only our people would help the rebel cause.

We accepted that pledge in good faith. But even then that was not enough.

In July of that same year, 1776, the Governor and Council of Massachusetts met in Watertown with the leader of the Micmac and Malecite Nation. They had come not only to represent that one colony but to speak for all the United States. They called us their friends and brothers. They asked us to sign a formal treaty of alliance which would guarantee our mutual safety, defense, and happiness.

The Indian people who sat at that table in Watertown had more of a claim to sovereignty, to nationhood, than did the Europeans who pleaded for their help. Yet they signed the Watertown Treaty. They made a lasting alliance with the United States. They committed Indian men to the war with Great Britain and through this warfare they helped make this Nation a reality.

That was 200 years ago. Go into the streets of Boston today and walk among the descendants of the same Europeans who signed that treaty and ask them about their friends and brothers. Ask them if there are any Indian people in their city. Ask them if their government remembers its promises. I don't need to tell you their answer.

For the urban society we are forgotten, invisible, and the chain of friendship has not been broken, it has been conveniently ignored. The question is, why did this happen? Was it an accident? An oversight? Just a mistake? No, it was deliberate. It was the conscious act of a people whose system of government, of economy, and of human values made no room for the native American.

Whatever we put down on paper, all the treaties and promises cannot undo the fact that there is an absolute difference between Indian people and the white world. And it is never more obvious than that in a city. In helping to make Boston a reality, the Indian people have created a Frankenstein, a vast urban monster that has now turned on us with a vengeance.

The racial violence in Boston is a prime example. The Boston Indian Council operates a school in Dorchester. That school tries to fill the gap left by the public schools. It offers our children a chance to learn the positive side of their culture. We tell them about their history, their art, their language and we let them know it is good to be who and what they are, to be Indian and to be proud of it. Now that school is closed. The streets around Dorchester have become a kind of no-man's land for the gangs of whites and blacks to attack our people. Indian children are the targets for both sides. We are caught in the crossfire.

Yet when we approach the two sides, when we try to educate them to the results of racial hatred we get the same answer: The other side started it and it is their fault.

If 500 years of racism and genocide has taught the Indian people anything, it is this: The fault lies with the system, not with the people. That system, the political, economic, religious priorities imported to this continent are alien to the native way of life. They represent a world where human values are measured against profit, where education becomes a means to an end, not a way to human development.

The reason that the white and black factions of Boston are at war is that they are prisoners of the same inhumanity. The native people understand this. We offer the answer because we are the only people in this land with an alternative, with an option to the capitalist system that dominates America. No other ethnic or racial group has this claim. They are part of the melting pot or the system itself. But we are not and we never have been.

What separates Indian people ,from the rest of society is not just a question of different customs or language or customs. What separates us, what makes us unique is 15,000 years of cultural development. In that time we have evolved into a distinct race, a people unlike any other on earth. That is our heritage. That is the fact of Indian life, and it totally contradicts the system under which we are now forced to live.

Indian people built communities, not cities. The mortar which held us together was not made from concrete or steel but from the natural way of sharing and giving, from the tolerance and respect that we freely gave one another.

That kind of democracy was not born 200 years ago. That idea that freedom was brought here to this country or that is was created here by the U.S. Government is ridiculous. The great law of peace of the Iroquois guaranteed Indian people the right to be, long before the first European colonies ever dreamed of this idea. They now call it the first amendment of the Constitution. Freedom, real liberty, is as much a part of this land as the rivers and mountains and forests we cared for. It is a part of us, and it is our way of life.

That freedom is buried in the cities of this continent. It lies sleeping in the streets of Boston, Los Angeles, and Minneapolis. At best, Indian centers such as the Boston Indian Council, can only fight a holding action against the pressure of a social system that neither understands nor cares for the Indian way.

What can we, the so-called urban Indians, offer to our people? If we improve our housing they will still exist in the artificial brick graveyards that the non-Indian world calls home. If we offer them every advantage of the white educational system, can we really believe they will know more about themselves, about their own traditional values, and heritage? Or if we find them places in the American corporate structure, in the front offices of big business, will we have helped them to become better human beings?

From our experience as Indian people living in an urban world, the answer is "No." For 500 years Indian people have been indoctrinated to the belief the European way of life is something to be envied, to be longed for, and copied. We have been programed to accept alien standards and values as being better than our own. We have been told that our language, our religion and our customs are only shadows compared to the sophistication and technology of the European society. Many of us have swallowed that lie. We believe that we are helpless in the face of a superior society.

The Indian people of Boston have had a chance to see that society at work. We have seen what it produces and we reject it. We do not want to become just another cog in the wheel of the urban machine. We do not want to be in the melting pot of the American economy. Maybe more than other native people, people who are still a part of their lands and reservations, we feel the emptiness and loss of the "American dream." We know the European system for what it is, an illusion. Boston was a bad dream. It is not only foreign to our way of life, it is a direct threat to that life. There is no future for our people in becoming part of that illusion. There is no promise or hope held out by the immigrants that can take the place of what we already have.

Our rejection of their system is not a negative act. It is not a radical reaction that comes from despair. It is a positive reaffirmation of what is best in Indian culture. We do not have to look for our place in society, we were born with it. It has been with us since the beginning of time. We are Indian people, wherever we choose to live. We are Indian people, the human beings, existing in a city that has long since abandoned its humanity for the sake of profit and power.

Boston has nothing to offer us, it has nothing to take the place of our traditions, our culture or our religion. To become a part of the urban life would be an act of suicide for Indian people. It would mean accepting what we know now to be false. It would be to substitute a lie for the truth.

For this reason the Indian people of Boston are calling on other native Americans living within the cities of America to reject the title "urban Indians." We are calling them to recognize that our future is not to be found in the city, but in the community. The very idea of an urban environment works against that principle. It destroys us. Traditionally we have gone to the cities for better jobs but the price we pay is too high. What we receive in return is not worth what we lost. No Indian center, no matter how well organized, staffed or funded, can replace that.

After making this statement the question that usually comes back to us is the same: Aren't you being a little unrealistic? You really believe that cities like Boston, Los Angeles or Chicago will disappear? They are a fact of American life, they just won't go away.

Our response to this is the same, "Yes, we understand that. But the reality of the cities is nothing compared to the reality of Indian culture." There is no city on the face of this continent that predates the Indian community. In Nova Scotia where I come from there is a Micmac community. It is over 11,000 years old. In the face of that, Boston, New York, and Los Angeles are jokes. They are only recent phenomenon. They are illusions, we did not create them, we did not want them, and now we should see them for what they really are—creations of a foreign culture. They represent the system which produced them, and that system is not Indian, it is alien.

No, the American cities will not disappear, but neither will the Indian people. We are not victims of the system, we are survivors, cultural survivors. Even in the streets of Dorchester and Roxbury we survive, and there's the key. There is the alternative we have that other races do not have. The Indian people of Boston have been able to exist despite nonrecognition, despite racism, and because of their culture, because they realize that their heritage goes back over those 11,000 years, they realize that Boston is only an illusion, that what is real, is constant in their lives, is their Indian heritage. As long as they hold on to that reality, no economy, no school systems, no corporate power, can rob them of their identity. No city can stand against them.

We are not being unrealistic, we are being Indian, and what we are asking for is that other Indian people caught in this dream world join us, that they reject the illusions of a better life in the city and return to what has sustained them for thousands of years.

The way to do this is through the concept of aboriginal rights. Every Indian nation, whether land-based or not, has a claim to self-determination as Indian people. We have the right to demand a return of our property and back grant in compensation for lands now being used illegally. Despite past treaties or agreements the Federal Government has the moral obligation to insure the aboriginal rights of native people. But it will not do this as long as our people remain trapped in the economic and social system of the Europeans. Our first task is to reeducate ourselves to the traditional values which have kept our communities alive for the past 15,000 years. This means abandoning our preoccupation with "success" in the white world. It means placing our energy in the direction of a renaissance of Indian culture. It means no difference whether we live on reservations or in cities, we are still Indian people and our culture is there waiting to be reclaimed.

The second step is toward community. By this I mean a total Indian community, all native people, that every tribe must join together in a common cause. We must support one another in our demand for self-determination. In the past we have always been our own worst enemies. Our lack of unity, our jealousy and disorganization has kept us weak before the European domination. Now is the time for us to realize that what we share in common is more powerful than what separates us.

In Boston we have seen the results of a society that has no sense of itself, no real sense of community. The racial violence that tears that city apart is a direct outgrowth of this. We have answers to this kind of identity crisis but our voice is never heard.

The third step, therefore, is to take our culture out into the dominant society, to educate the non-Indian world to the values we have maintained for all of these thousands of years, to offer them our alternative to the illusions they now accept as facts. Freedom did not begin 200 years ago. It has existed on this continent since time immemorial. The non-Indian needs to understand that and the place to begin that understanding is in the schools.

This is the one recommendation we want to make, that the American public school systems initiate a comprehensive curriculum in native culture. The historical, social, religious, and ethical realities of native culture must become a standard part of our educational system.

This could be done in two ways. First, in a general sense all schools could offer instruction in the common elements of native culture. The total expanse of native American history, the emphasis on spiritual reverance for life and the ecological soundness of our society could be presented. The adopted Americans are being robbed.

Second, on a regional basis each individual tribe's unique culture could be offered as a part of that region's educational system.

In Boston, for instance, this would involve the Wabanaki cultures. It would mean instructing the people of that city to the fact that their city is only a cultural infant compared to the 11,000-year reality of Indian life. That the economic, religious, and political systems that they see around them are not the only ways to live, and that the racism they practice could be overcome by attention to the Indian belief in tolerance and humanity.

We were not sitting around waiting to be discovered. In short, every native peoples have viable lessons to offer to the non-Indian world. We are not like they are. This is why we should not be called urban Indians. If we can educate ourselves to that fact and then take our methods out into the schools we will have gone a long way toward insuring that our culture will continue to survive.

On an additional issue we would like to request that the Federal Government assume its responsibility for representing Indian tribes on an international level by holding treaty negotiations with Canada to reaffirm the principles of the Jay Treaty of 1794. The way we envision this process is to establish a negotiated body made up of United States and Canadian representatives, and United States and Canadian Indian representatives. All four groups would have equal status and the Indian representatives would be chosen primarily by the tribes that straddle the border such as the Wabanaki Confederacy, the Iroquois Confederacy, the Chippewa, the Sioux, Blackfeet, and Northwest Tribes.

This, then, would establish a new international convention relating to Indians of North America. Articles we would like to see include a recognition that Indians, by right of the Jay Treaty, can freely pass between the United States and Canada without suffering legal sanctions, or deprivation of Indian treaty rights.

Another area of consideration would be to include all Indian representatives on the Pacific Fisheries Commission, to advocate Indian fishing rights.

We would also like to see a coordination of services provided to Indians in the two countries so unified Indian policy could develop. As it stands, the services provided by goth Governments and the rights retained by tribes are very similar so that it should not be difficult to coordinate other aspects of tribal and Federal regulations. We have heard that informal and secret exchanges of information currently are carried out by the Department of Indian Affairs and the Bureau of Indian Affairs. So formalization of the process and opening it up to public scrutiny is a very logical and a simple step to take.

We are making these requests because many of our people in Boston are constantly encountering problems in obtaining much needed sound social services, because the Government says they are not citizens. We believe that a special relationship of the Indian tribes to the Governments of Canada and the United States is not based on citizenship but on our treaties and royal proclamations.

Indians in many parts of the United States did not receive U.S. citizenship until after the passage of the Snyder Act, which serves as the legislative basis for social services for Indians. The fact that the Federal Government provided large amounts of money for Indian education, health, and welfare before Indians were citizens proves that the Government itself recognizes that provision of these services is not based on citizenship. The problem is to get that minor bureaucrat to understand this. An international treaty reaffirming the fact that we, as native peoples, did not have a boundary between Indians in Canada and the United States, would go a long ways toward informing and educating bureaucrats in both countries.

The fact is that the Wabanaki Confederacy continues to exist as a sovereign confederacy. Made up of the Passamaquoddy, Penobscots, Micmac, and Malecite Tribes of Maine and the Maritime Provinces, the Wabanaki Confederacy was allied with the United States during the American Revolution. We held the balance of power in New England and without our support the English could easily have conquered the New England revolutionary. Our importance was recognized at that time by both the Provincial Governments of Massachusetts and George Washington.

Several treaties were signed by the Wabanaki people and the United States. Until recently the United States has studiously tried to ignore its treaty relationship with us, but we have recently won some great victories. The Passamaquoddies stand to gain two-thirds of the State of Maine back, plus $300 million to be renegotiated with the Maine Legislature, and the Micmac people are pressing their cliams for approximately 2 million acres in Nova Scotia. We are still a sovereign people and should be recognized as such by both Canada and the United States.

In light of the ongoing study of aboriginal peoples by the United Nations, the United States and Canada, by working for such a treaty, would serve as an enlightened and progressive example to other nations in their dealings with native people, rather than serving as a negative example of indifference and bad faith.

The last recommendation we want to make is in relation to the question of nonfederally recognized Indians. In land claim cases, law cases, and in almost all other areas where Indians come into conflict with the Federal Government, the burden of proof falls on the Indian people. To our way of thinking we should not have to prove our existence to the European people. We are here. The burden of proof should fall on the Government, since it is the entity that is denying our existence. We recommend that the Secretary of the Interior be forced to prove that a group is non-Indian before he can deny their services.

Thank you.

Commissioner Bruce. Thank you. Any questions?

Commissioner Dial. I would like to commend you for such a fine paper.

Mr. Deloria. Mr. Basque, I know you are in a hurry to catch your plane, but I have a few quick questions. Are there any Federal programs which do serve Indians who are considered to be Canadian citizens?

Mr. Basque. On our CEDA grant, title 3—Indian Manpower, we had to have the Jay Treaty reaffirmed, where citizenship was not a matter of being Indian. We receive no Federal service from the Bureau of Indian Affairs. The services that we do get, we have to compete with other minorities, with poor people.

Our problem, as far as citizenship, is in regard to welfare, for instance. The people in Boston, only 30 percent of the people are actually receiving welfare, and literally 80 percent are qualified, and the way that the system is set up, they take no regard for culture or the fact that they are native. They label us as Canadians rather than as a unique people.

Mr. Deloria. Have specific steps been taken to request the Governments of Canada and the United States to try to work out some cooperative agreement?

Mr. Basque. We are just now starting into that. The Federal region 1 task force is going to be addressing that problem, the problem of Indian affairs in Canada. Hopefully, it will keep on rolling. But that is what we recommend to the Policy Review Commission, to support that. The "divide and conquer" practice has been going on for a long time, and that is part of it.

Mr. Deloria. Do we have copies of your statement?

Mr. Basque. I will get them for you.

Mr. Deloria. Will you mail them to us?

Mr. Basque. Yes, sir.

Mr. Deloria. You are familiar, I am sure, with the recently created World Council of Indigenous People, are you?

Mr. Basque. Yes.

Mr. Deloria. Have you given consideration to submitting some specific issues to that organization for resubmission to the United Nations for their indigenous study?

Mr. Basque. Yes; we certainly will.

Commissioner Bruce. Any other questions?

Thank you very much. A very good statement.

Sylvester Knows Gun, is he here?

Will you state your name and where you are from?

STATEMENT OF SYLVESTER KNOWS GUN, COALITION OF INDIAN CONTROLLED SCHOOL BOARDS

Mr. **Knows Gun**. My name is Sylvester Knows Gun.

The speech was published but it didn't get to me, so here I go. The speech will later be sent. I would like this to be part of the record that the recommendations will be later sent.

Commissioner **Bruce**. Will you speak into the microphone?

Mr. **Knows Gun**. The recommendations will later be sent by the Coalition of Indian Controlled School Boards.

Honorable Chairman, and the rest of the members of the Commission, on behalf of the Board of Directors of the Coalition of Indian Controlled School Boards, Inc., and the director and staff of our organization, I would like to thank you for this opportunity to speak for and in behalf of the member schools that we represent throughout the country.

The Coalition of Indian Controlled School Boards is a relatively young organization. We have only started out about 4 years ago. Today we have approximately 172 active members with more coming on board each month. I would like to relate the statement that I have toward education and then I guess I will stop there with the other things mentioned in this speech, and as I said, I apologize to the Commission, I did not get the copy of the speech that was supposed to have been presented here. So what I am doing here now is just going with what I have. These are the concerns, and I know the concerns of the Indian people are many and they are varied. So in this particular case I would just like to relate to the educational aspects of our problems.

We have constantly worked with our schools. Although it seems as though to many people there are many, many schools that are under Indian control, up to this date we know only of approximately two dozen schools that actually have control of their schools. Each year the Bureau fails to appropriate money for Indians' previously private schools. I believe in 1976 they appropriated—for the fiscal year 1976, there was only $1.5 million to meet the operational costs of these previously private schools, and there seems to be no more toward setting up any special moneys for the previously private schools, although there are many that are aspiring to gain control of their own schools.

I would like to add that these schools, the two dozen schools that I am referring to, have developed in spite of overwhelming odds. They have done so in a manner consistently within the meaning and legislative intent of the Indian Self-determination Act. They have managed to accomplish several things in spite of inadequate funding and the BIA circumvention of legislative intent. The interpretation set forth by the BIA regulating the intent of Congress serves only to frustrate the Indian communities who aspire to control their own destiny, particularly in the field of education.

Now, for fiscal year 1977, the Bureau of Indian Affairs has requested $27,956,000 in Johnson-O'Malley funds. This is $3 million less than for fiscal year 1976. Yet the BIA, by their own admission, states that there are 20,000 more students eligible to receive Johnson-O'Malley funds in fiscal year 1977. With $3 million less in funds, may we ask how the BIA intends to accommodate these 20,000 students?

On March 10, 1976, Morris Thompson stated to the Senate Appropriations Subcommittee on Interior and Related Agencies, as follows:

> We are requesting in the fiscal year 1977 appropriations in the amount of $759 million, a net decrease of $17 million over fiscal year 1976. Although in total the request is down from 1976, increases are included in most of our programs except in construction, the Alaska Native Fund and the Revolving Fund.

In fiscal year 1976 there was $31 million appropriated for BIA administered school construction, or administered school construction. None of this amount was made available for previously private schools under the above stated authorization.

School construction is one of the most dire needs of our Indian controlled schools who are contracting with the BIA as well as schools who are eligible under section 208. In fiscal year 1977, $16,663,000 had been requested for BIA administered construction. This is earmarked for emergency purposes, the replacement of three schools that have been destroyed by fire, another replacement for a school about to be inundated by a diverting river.

I won't go into the examples at this point here because I know we are running short on time, but they will be in the report.

Now, if appropriations to implement the mandates of Public Law 93–638 are nonexistent in some areas, inadequate in others, the lofty concepts of the Indian Self-determination Act are mere words. The total ideas of that become programed for failure. Appropriations are necessary to move the language of this law into action. Otherwise, the act is meaningless. Those Indian people who have been given hope at the grassroots level can feel nothing but frustration. In order for this act to breathe with life, so that it may serve the Indian people for whom it was intended, there must be means of implementation. It must have adequate funding.

Now, you will note that Morris Thompson, before the Senate Appropriations Subcommittee on the Interior and Related Agencies on March 10, 1976, said as follows: "Last year I reported that for the first time we were fully responding to the Indian Reorganization Act of 1934, Public Law 73–383, as it pertains to informing Indian communities on budget."

Clearly, this implies that it has taken the Bureau over 40 years to take note of an act of Congress concerning Indian people. The intent of Congress in the Indian Reorganization Act of 1934 was self-determination, with its companion acts, the Johnson-O'Malley Act of 1934.

Johnson-O'Malley was specifically designed to help States to educate our Indian children within their public school systems. Those of us who have lived with the regulations of the Johnson-O'Malley Act, placing our children in an alien school system, realize how prophetic the wise Indian leader's words were: "When we give the minds of our children to others, we will lose our nation and our freedom."

Public Law 93–638 again contains two sections, title I, which allows tribes to contract for those services formerly dispensed by the BIA; title II, its companion, again specifically provides all necessary means for States and the BIA to educate our Indian children within existing school systems, with a minimum of control by Indian people.

Education begins with our most precious resources, our children. It means the total spectrum of education is life experience.

This concludes my testimony here for the moment. As I said, I am limited because I didn't write my other speech. They are writing it and it didn't come in. I will be happy to answer whatever questions you have.

Commissioner BRUCE. Ray, do you have a question?

Mr. GOETTING. I was going to suggest that when you do get it, the transcript of this meeting will be held open for 30 days so we can add that to the record. You submit it, anyway.

Mr. KNOWS GUN. Thank you, I appreciate that.

Commissioner BRUCE. Any others?

Commissioner DEER. I would like to ask on what basis do you decide to assist an Indian community or group in establishing a school?

Mr. KNOWS GUN. Let me go back a little bit first. We have been dependent upon the people that have been educated and just, hopefully, some of these people would have concern and the charisma to really get out there and speak out for the Indian people. But this has never happened. It seems as though many of our educated Indians—I am not talking about the contemporary educated Indians, I am talking history now—would get to a point where they would get sucked into the system. The cosmopolitan way. It seems to me that the BIA would quickly open up a position for them and suck them into the system.

We got tired of waiting around so we just took the bull by the horns and some of these people—many of us people did not have a degree, in fact, about 99.9 percent of us didn't have a degree—and as I say, we just took the bull by the horns and we started doing something about it. This is how the Coalition of Indian Controlled School Boards got started.

So what we do is go to people that request help from us. We kind of act as a big brother, and advocate, to bring Indian control to local Indian school establishments.

We have had Busby schools, for instance, that wanted control. I happened to be a member of the school board at the time. The BIA was frustrating our attempts to take over, so we didn't know what else to do, and in this case we just went to Washington, D.C. We did not go to the Indian Affairs building, we just went on into the Department of Interior, and we went into the White House, and voiced our problems there. Then we also were interviewed by the Washington Post. From there we began to get more help from the Senators.

So we have been successful, to some degree, but as I said, there are only two dozen schools that are actually under Indian control, and I might add that these schools are really thriving. The Busby school, for instance, has now hired three Ph. D.'s. We know education itself doesn't do the trick. We need people that are really concerned about our Indian children, and the whole community just turns upside down with activity, because these Indians are now a part of the educational system of the community. No longer is there a fence built around the school. In fact, they took down their cattle guard. It is now their school. It is no longer the BIA school.

I think this gives pride to the parents, and for some of us that have lagged. Some tribes have been more progressive, they have been more involved, possibly because of the better environment or whatever you call it. There we were way out in the boondocks, and we didn't know our rights. In fact, I am a product of one of the schools. I graduated—I didn't really graduate, I got a certificate or something to that effect, as a high school student from Busby Indian school. At that time it was known as the Tongue River Indian School. When I got out to an off-reservation school, which is at Newton, Kans., I went over to visit the freshman class. And, you know, algebra was Greek to me. Civics was something I never heard about. I just didn't know what to do because all this time I thought I was in high school. But I did know at that time that Busby school was just a holding pen for Indians until they were 18, then they were released to become a part of the problem.

And so I guess this is one of the reasons why I got involved in the area of education because I did not want my children or other people's children to go through the same route I had to go.

Commissioner DEER. I realize there are different situations in different reservations and I am interested to know what consultation there is with the local tribal governing body before you go in. What criteria, who makes the decisions, does the staff make this decision, does the Board make the decision?

Mr. KNOWS GUN. The Board until recently—we are concerned about tribal sovereignty, as well as anybody else, because we are grassroots-level people that make up the coalition. One of the things we required the members to do was to get a letter, a resolution by their tribal council supporting their efforts to become members of the Coalition of Indian Controlled School Boards.

Commissioner DEER. I would like to relate to you just a recent experience of my community, the Menonimees, because I think it raises certain issues which in my opinion are not actually addressed. We recently had a school election and the Coalition of Indian Controlled School Boards was involved in this. The vote was very close, approximately 30 to 40 votes, to have a separate school district. The position of the tribal governing body was not in support of this but nevertheless the coalition came in and advocated for this, they have now left and the people in the community are left to work out this whole new school system.

I think this is going to be a serious problem on our reservation and our community and I think the participation of the Indian Controlled School Boards needs to be thought through and reexamined before they do come into Indian communities.

Mr. KNOWS GUN. I think the Coalition Board would agree with me that we are not in this thing to be the cause of a schism with any tribal group. In fact, we have been insisting, at least I have, that the tribes get together.

Now, on the Cheyenne Reservation there are some problems developing there, too. There I am saying we will stay out of it, once they work out their problems, then let's come back on the scene to help them out.

This is the role we play. We are simon-pure as far as politics is concerned. Sometimes, maybe, we overstep certain things because of our naive situation, but we are learning as we go along and we are certainly not there to divide Indian people at all and I hope this thing can be worked out.

Commissioner BRUCE. Any questions?

Mr. DELORIA. Mr. Knows Guns, please excuse me, I had to step out to answer some questions for the people who had to catch an airplane. Have you in your organization had any experience of BIA or other education officials deliberately setting off parent group against a tribe or a community group against the tribe?

Mr. KNOWS GUN. Yes; absolutely.

Mr. DELORIA. Can you supply this Commission and task force with specific examples of that kind of political manipulation?

Mr. KNOWS GUN. I will.

Mr. DELORIA. If that will be in writing with as much documentation as possible, that would be extremely helpful to the task force.

Would you happen to know how many tribes—I understand the Navajo Nation is in the process of doing this—would you happen to know if there are any other tribes that are in the process of developing a tribal department of education?

Mr. KNOWS GUN. I think our director mentioned this a little bit, but we, as a board, haven't really discussed this, and it seems we are always in a crisis situation. We get so involved in various things, we don't get the full spectrum.

Mr. DELORIA. You have been unable to secure any assistance which would enable you to work with the tribal governments developing a department of education, is that right?

Mr. KNOWS GUN. Yes. We have got several proposals right now written, we have several plans, and I really cannot tell you at this point how far these things are since the directors are working with us.

Mr. DELORIA. The Federal Government has a number of programs which are designed to assist State departments of education and strengthen them and provide basic staff support so that they can in turn support local school districts. Do you know of any such Federal assistance that is made available to Indian tribal governments?

Mr. KNOWS GUN. Would you come again on that? I just missed a point.

Mr. DELORIA. There are a number of Federal programs which involve Federal money being given to State departments of education to strengthen the department, to provide staff support, and to enable the State department of education to provide various kinds of assistance to local school districts. Do you know if there are any Federal programs which provide similar support to Indian tribal governments?

Mr. KNOWS GUN. At this point I could not say for sure. Well, I won't make any excuses. I will just flatly state our involvement with the ongoing things is pretty much nil. But the important issues, is where we make decisions. So this year I am trying to appraise all the board members of exactly what is happening so that each of us will have a good understanding of the needs of people. Many times we have our own options. Before we pass on anything, we have to call back to our constituents and ask them. Sometimes they ask us for recommendations, and sometimes we do give our recommendations concerning that. The Busby school—which is a takeover school, used to be a

BIA school—has had some help, but I could not tell you whether it was from the State or the Federal at this point. And so now that you brought up the point, I am going to look into this and find out.

Mr. Deloria. In other words, as far as you know, there is no Federal money going to Indian tribes to enable them to develop a department of education, is that correct?

Mr. Knows Gun. I don't know, I don't have that knowledge right now.

Mr. Deloria. Thank you.

Mr. Goetting. Mr. Knows Gun, I have one question. Do you ever get called upon by advisory school boards of the BIA schools for any assistance?

Mr. Knows Gun. The advisory school boards haven't come to us at the percentage we would like. We have had people from the Choctaw Reservation, Mississippi, contact us, and we have given them some services. But other than that, there have been very few advisory boards that are requesting us. I don't know whether it is the fault of the staff or rather—I just don't know at this point.

I would like to say at this time that the school board of Busby, when we first started out, requested some BIA money, to train the board. And BIA says, "OK, well go ahead and do this, and do that."

We said, "Wait, hold it there. We want to select our own consultants," and so on.

This is what we did. We got our own consultants and I think we learned much more by going to these people. We are not connected with the Bureau of Indian Affairs.

Mr. Goetting. Are you in a position to help advisory school boards in regard to BIA schools?

Mr. Knows Gun. Yes, we are in a position if there is someone close by there, that has particular expertise in the area of a particular need. We will send someone close by that has some relevancy toward what the need is.

Mr. Deloria. One of the many things, Mr. Knows Gun, I don't understand is education programs. Would you happen to know if it is a problem for the schools that you are now serving, if they ever have the problem of being required to set up different governing boards or advisory boards to meet requirements of different funding sources, different legislation? Is that a problem with you?

Mr. Knows Gun. I don't know if I understand the question.

Mr. Deloria. For example, does it happen that they might have to set up a parent advisory committee for programs funded by one piece of legislation and a community governing board for programs for another piece of legislation and a different advisory committee for another?

Mr. Knows Gun. I think we do run into those problems occasionally. We have some problems right now at Ashland, for instance, under the title IV thing. They are requested to set up a PAC committee. Now I hear just about 2 weeks ago that the school board there suspended title IV. They suspended title IV until one of the people working for title IV, who was a director, was removed.

I haven't been back since that happened. So I don't know what Helen Davis did. She was there to look at the program to see what was going on with title IV.

We have another problem in Oklahoma. We have the PAC committee there that is being disregarded totally by the school board. Whatever the parents request doesn't seem to help. We thought by contacting title IV that we could come up with a strong regulation directing the school boards to listen to the PAC committee, but all we got was some ambiguous statements, said nothing that we could really hang the board on. So this is the kind of problem we are running into.

Then sometimes it seems like I have heard the directors say there is some imposition of these guidelines into different communities. There are all kinds of variations of Indian culture throughout the country, and sometimes these guidelines just don't fit in there. I think each reservation should have some say as to how these guidelines should be worked out in the system so they don't hamper. A lot of these programs hamper the local community by imposing a lot of guidelines there that just don't work with that particular community.

Commissioner DIAL. Mr. Knows Gun, I believe you said something about a high school you attended and you decided later you were not in high school at all.

Mr. KNOWS GUN. I don't think I was even in a sixth grade position. I just didn't know anything, period.

Commissioner DIAL. Would you briefly describe this high school?

Mr. KNOWS GUN. It was not really a high school. I found out later the Bureau did not recognize it as a high school. I always wondered why the drinking fountains were that high (indicating knee high). I found out later it wasn't recognized as a high school, yet they told us that we were high school students. Then according to the report that they had, that has been submitted to Washington, D.C., it was found out it was just a holding pen, just a place where the kids could come and congregate until they were 18, then they were turned out.

Commissioner DIAL. What courses did you take while you were there?

Mr. KNOWS GUN. I think for 2 years straight they read "Sleepy Hollow" to me in the afternoons, and they taught me for 3 years how to measure a haystack. Outside of that, we slept and shot spit wads. In the afternoons we worked, supposedly we were learning agriculture; we shoveled manure and this type of thing.

Commissioner DIAL. Still didn't have any real courses in agriculture?

Mr. KNOWS GUN. No real courses in agriculture. There was one course I remember. We were taught to take a harness apart. Harnesses, you know, for workhorses. We were taught to rub their knees with oil, this type of thing, and that was the extent of our agricultural courses.

Mr. DELORIA. Shoveling didn't prepare you to deal with Federal programs?

Mr. KNOWS GUN. We got plenty of that.

Commissioner BRUCE. Any other questions?

Commissioner WHITECROW. I am just wondering if he still knows how to measure a haystack.

Mr. KNOWS GUN. I forgot that. I got so disgusted with the BIA educational system, I just completely forgot. It is a blank right now. I suppose I could learn again. I could go to the next BIA school. I am glad now it is a contract school. So, like I said today, that particular contract school has three Ph. D.'s and the whole program is different.

The people are involved. It is fantastic. I wish they had done that years ago.

Commissioner WHITECROW. Let me ask you a question, Sylvester, with regard to some of the schools that you are aware of. Do you know of any that have the reputation of being just a stopgap or the last stop for Indian youngsters just prior to being introduced by the courts into State training schools?

Mr. KNOWS GUN. I don't think I could be that technical, but I do know many students that have come from Flandreau, S. Dak., have had problems in getting into the State programs.

That is not the only school there. I am just speaking locally from my reservation, the students that I know. The biggest problem seems to be—I am talking about the Crow Reservation—the public schools that are supposed to be providing education. We took a full year's fourth-grade student and we took his younger brother, he was in preschool. We have a little private school there called Kentmin Indian School, we have no Federal moneys at all yet we qualify, but we presented proposal after proposal trying to get it funded, somehow they overlooked it.

Anyway, we have 122 students there. There was a little 6-year-old child that started there, that child knew his numbers, he knew his math, he knew quite a few things, and his older brother was going to the public school. The public school is located right on the reservation, but the school board is located off the reservation. So this child here, this fourth grader didn't know anything, and this little preschooler was teaching him the numbers, the vowels and different things. And when the parents found out that that little child learned more in the private school than the child going to public school, they jerked their child out and put him in this private school.

The only way this school is existing is that the parents are providing elk meat, deer meat, whatever they can, they donate that to the school. Just a little old place there, but at least the children are getting some kind of training.

Commissioner DIAL. One more short question. I attended an all-Indian school and also in college for 4 years at an all-Lumbee college. Our enrollment was very small. Later on, after World War II, I enrolled in Boston University where I did my graduate work. I remember I felt lost and inferior. This was my first experience in a classroom with a non-Indian person. To be more specific, it was my first experience in a classroom with a non-Lumbee person. Was that a good experience for me?

What I am saying is, as an Indian-controlled school board do you favor integrated schools? Do you consider this beneficial for the student? Would you respond to that?

Mr. KNOWS GUN. Yes. Many of our Indians, especially on the reservations, have an identity problem. In the State of Montana in 1970, I believe it was, they took the statistics there of Indian children. They found that an Indian child could go right up an achievement scale, up to the sixth, seventh, and sometimes the eighth grade and achieve right along with the rest of the non-Indian children. But after a certain period of time, when they got to the sixth or seventh, depending on the child, all of a sudden their achievement level did not just slightly go down, it dropped almost straight down.

We feel it is because the child all of a sudden realizes that Dick and Jane are middle-class white people, they are not Indian children, and the frame of reference is completely different.

So I feel part of the concern that, the Coalition of Indian-Controlled School Boards has is that we want a child—we are not pushing segregation, that is not the point—I believe that if we get a child and build the child's identity, after the child has accepted himself for what he is, then he can go from here to Timbuctoo and go to school, he can compete with the rest.

Commissioner WHITECROW. Let me ask one more question. This may be just a little bit of a lengthy question. As we know, in the past all Federal regulations have been developed at the national level. With the thought in the back of your mind that what was good for one particular area was good for the entire country. Now as you are looking at developing school boards of Indian people from throughout the country, looking at the various types of schools, either your own private school that you developed or undertaking control of Bureau schools for boarding school operations under 638, whatever it might be: Do you feel that the rules and regulations on education should be flexible enough to allow the actual operation of that local school board to place as much authority as possible in the local school board that is elected by the people for which it is serving?

Mr. KNOWS GUN. I believe so. Somebody might say, "Well, the Indians all make mistakes," but, the Bureau has made mistakes for all these years and nothing has ever been done to them or said to them or whatever. But I believe there is enough concern on Indians taking control; I think for every mistake they make they are going to make two right decisions. I think the more control that is given to a local community, through observation we have found some can't handle authority but, for the most part, I would say it has been positive and these people are singled out and the Indians are basically capable of making right decisions.

So, like I say, we are going to make these wrong decisions. Sometimes the authority goes to their head, but this is the process each community has to go through. I believe it is still to the benefit of a community to give them the reins rather than sit back and pull strings on them like puppets.

Commissioner WHITECROW. One more question. I have had a comment submitted to me personally that we need to take the civil service situation out of the Indian schools—placing those teachers in Indian schools under contract rather than under civil service. What is your feeling on this?

Mr. KNOWS GUN. I think any time you take a person out of civil service into a contract situation the teachers need to realize this is going to be a transition, they have been in the system for so long, many of them, that there is a lot of apathy among the BIA teachers. But they will find, if they get into a contract system, that there is a lot of room for change. It is time for them to really exercise some of the things they have learned in college. The BIA system for many years held the teachers down.

Now, there was one teacher that wanted to make a comment, his name was Vincent Sprawk; at that time I was working as an aide in a dorm section and we had a meeting with Miss Grissom from the area office who was the education specialist. And we were sitting there talking about education, about the children, about our concerns, and we found out that we were not supposed to know anything about education.

This particular teacher spoke up and he says, "I think"—he was really trying to help us. At that moment Miss Grissom spoke up and said, "You are not paid to think, you are paid to carry out what we tell you to do." And that was it.

As long as the BIA has that philosophy I don't think it is wise at all to leave somebody on a salary basis with the civil service. I couldn't use a person like that if I was running the school myself.

Commissioner WHITECROW. If that should happen, I can see plenty of opportunity for, as you say, the "bureaucrat" to apply rules and regulations to a contract teacher. Whereby, if you had a dedicated teacher that was under contract and really tried to do a job in that kind of an atmosphere, that if he was doing too good a job, as has been done in the past, that individual would be moved or his contract would not be renewed. So if this should come about: Do you feel perhaps civil service should get out of the actual operation of an Indian school program in total?

Mr. KNOWS GUN. Let me say for the expediency of the Indian self-determination philosophy, I would say yes, they necessarily have to be removed and they should be contract employees.

Commissioner WHITECROW. You are referring to all employees within a school system?

Mr. KNOWS GUN. Within the school system.

Commissioner WHITECROW. Within the present Bureau school system?

Mr. KNOWS GUN. Yes.

Commissioner BRUCE. Any further questions? If not, we thank you.

Mr. DELORIA. I am sorry, but we don't have hearings very often. Two short questions. First, do you have any data at this point in the operation of Indian-controlled schools that would tend to suggest whether or not they are more successful or more productive than other forms of school systems? Have any evaluations or other studies been done?

Mr. KNOWS GUN. Yes; we have evaluations done by various organizations.

Mr. DELORIA. Could you submit some of those for the task force?

Mr. KNOWS GUN. Yes; we will.

Mr. DELORIA. I understand at least at one time it was a policy of the Bureau of Indian Affairs to operate BIA schools only where no public school system would serve the Indian community. Their policy was to transfer these schools to a State-operated public school system as soon as possible. Second, do you know if that is still the policy and do you know if specific plans are being drawn up to transfer any additional BIA schools to a State public school system?

Mr. KNOWS GUN. At this point I would have to ask Ace on that and we will try to answer that particular question. But I do remember that when we first took over the BIA school at Busby, the superintendent there, his name was John White, suggested to us and to the reservation, that we go LEA. In fact, the Bureau was pushing all the

Indians to go into the public schools. We did not want that. and we got funded from the Donner Foundation to educate the Indian community as to the types of schools that we have throughout the country, how they were funded.

So after the community had a chance to look at the various systems that we described, then they decided they wanted to go contract, and this is one of the reasons why we got together and overvoted the superintendent.

By the way, the superintendent did not help us. He was adamant about this takeover. and so we went over his head and went to the area office, and the area office was singing the same song. Finally we went directly to, I think, Commissioner Bruce, ex-Commissioner Bruce was there at that time, and we discussed the takeover. So we had to go over the head of the reservation superintendent and the area director.

We call our area director "the Big Red." We found that it was easier to fire the Commissioner than it was to remove that particular area director.

Commissioner **Whitecrow**. Is that true, Mr. Bruce?

Commissioner **Bruce**. Yes, sir.

Thank you very much.

Mr. **Knows Gun**. Thank you. I appreciate this opportunity at this time. I hope you continue the good work.

Commissioner **Bruce**. Is Bernice White here?

Will you give your name?

STATEMENT OF BERNICE WHITE, MUCKLESHOOT TRIBE

Ms. **White**. My name is Bernice White, I am from the Muckleshoot Tribe. I am also a council member of the Muckleshoot Tribe.

Commissioner **Whitecrow**. Excuse me. Ms. White, would you spell your tribe for our reporter, please?

Ms. **White**. M-u-c-k-l-e-s-h-o-o-t.

I have a small statement. Within 30 days we hopefully will have some more to add to this. but this is what I came up with.

Statement of the Muckleshoot Indian Tribe of Washington before the American Indian Policy Review Commission hearings on the structure of the Bureau of Indian Affairs.

Members of the Commission, my name is Bernice White, council member of the Muckleshoot Tribe of Washington. I welcome this opportunity to testify today before the American Indian Policy Review Commission on two matters which are of great concern to our tribe.

The first is a problem which is unique to our reservation, although the source of the problem affects many tribes. Our reservation has not been surveyed since the original survey by which the boundaries of the reservation were established. We are aware that additions after the establishment of the reservation were made and later removed from our jurisdiction. We have requested the assistance of the Bureau in tracing these land shifts.

A survey is necessary for our tribe to enact zoning ordinances and to work out an overall economic development plan. If we do not know the exact boundaries of our reservation, it would be fruitless to pursue these plans since they may be challenged. In the case of the

Muckleshoot Reservation, this problem is of particular concern and importance because the incorporated city of Auburn, Wash., has its city limits onto the reservation. As you are aware, Washington State is a Public Law 280 State. With this action by the city of Auburn, we are now subjected to the jurisdiction not only of the State and county, but of the city of Auburn as well.

We protest the actions of the city of Auburn and feel that the Bureau of Indian Affairs should have acted to protect our interests in the integrity of the status of our land as Indian land, rather than passively sit by and acquiesce in the city's action. As you can see, it is crucial that a boundary survey be made on the Muckleshoot Reservation, and we ask the assistance of this Commission in this matter. We recommend that this Commission pay particular attention to the survey needs of the Indian tribes.

A second matter that we want to bring to the attention of the American Indian Policy Review Commission is of concern to all tribes, namely, the Bureau's contracting procedures. For one thing, the reimbursement system of contracting hurts those tribes which have limited resources because they are forced to borrow money at high interest rates in order to begin implementation of their contract program. The contract funds, of course, do not cover these interest payments and further, they do not cover inflationary cost increases in supplies and materials.

While the Bureau says that it uses a fair and equitable contracting bargaining system, the fact is that it operates from the premise of a fixed price system. Which is to say that despite the budget needs of a tribe to operate a program, the Bureau will provide only a fixed sum for such a program. The costs of operating the program may vary from tribe to tribe, but the Bureau will provide only a uniform fixed amount for the program. The Bureau continues to talk about free and equitable contracting with tribes but continues, at the same time, to return initial proposals reducing the amount requested by tribes. The tribes are not informed what the fixed amount is in advance. If they were, much of the time-consuming procedures involved in contracting would be eliminated or reduced.

At the same time, the deliverables projected in the initial proposal must remain the same, at the insistence of the Bureau, at a reduced dollar base. So the Bureau insists that the tribes deliver what they originally projected, at a dollar base which is less than what was originally anticipated.

The tribes had looked to the Indian Self-Determination Act as a tool to streamline the Bureau's contracting procedures. However, the procedures have not been finalized and show little promise of being more streamlined. The regulations to the Indian Self-Determination Act operate to destroy the intent of Congress in enacting the bill, the intent being to assure greater Indian control over Federal services to Indians, and an affirmation of the Congress of the continuing trust responsibilities of the Federal Government to the tribes.

Also, what I have to say now is as an individual, my thoughts and questions. This will not be on the statement.

I am wondering about the BIA on the cost reimbursable contracts. Wherever the money is, who collects the interest on this money, wherever it might be, because we have to borrow, in our case we have a smoke shop on the reservation but it is a burden to us to pay out the money and wait a long time before it is reimbursed to us.

Also, there is a question on misappropriation of funds. I was in the District of Columbia a month ago, and at that time they told me that there were moneys available and they should be in the area and local offices for us to draw on for technical assistance for 638. Also, there was money in the Albuquerque office for surveys.

We were shooting a letter off to Albuquerque once a week, once a month, whenever we got around to it. We are a very busy council.

Upon return, and going to the office at Everett, the BIA, I questioned them at their staff meeting. In both instances they told me that the money was misappropriated. I asked them where, but they would not answer me where. There is a question in my mind, if the money was there, if it was misappropriated: Who got it and why? They didn't bother to answer any of our letters at Albuquerque.

Commissioner BRUCE. Sam, do you know anything about that?

Mr. DELORIA. I didn't quite understand. Would you review that one more time?

Ms. WHITE. Which one?

Mr. DELORIA. About the misappropriation?

Ms. WHITE. Yes. When I was in the District of Columbia I spent almost 2 days just walking around knocking on doors. I was talking to one lady and she at that time informed me that there was technical assistance money within the States, in the area offices and the smaller offices, for technical assistance to implement the training of 638 and there was also a film. Mr. Smalls, from the Everett Indian agency, called Washington, D.C., and he came back and said, "The money was misappropriated." And I said, "Where?" And that is as far as it ever went. And the same answer came from the money in Albuquerque. But I received, I think, that information right in Washington, D.C., that the money was misappropriated, and I asked, "Well, where?" And I get no answer.

Mr. DELORIA. Whom have you asked? Who was the lady that told you that originally?

Ms. WHITE. I think her name was Miss Perkins.

Mr. DELORIA. Perkins?

Ms. WHITE. Yes.

Mr. DELORIA. In what branch of BIA?

Ms. WHITE. Oh, there are so many of them, and I have my paper work at home. Phyllis Cross could tell you. She was the one that referred me to her. That was on the survey money.

Also, another thing that bothers my mind is the Commission itself. You were people sent to us to hear our grievances. It bothers my mind, of the material gathered here and of the questions being asked of the people that present their problems, many of them are saying, "Have one office in Washington, D.C."

I have not studied this matter very long, but to me, in one sense it poses a threat. If enough of them ask for this type of program, I realize that your hearts and minds mean well to us, but it is disturbing when and if you leave this program, what is going to become of us in the years to come? Many promises in the beginning have been made and their faces turned away from us.

I would hate to see all the things that have been said and done here be used against us one more time. I would like to see our people speak and act that this remain their property and that any time there is going to be a change, it would be the Indian Policy Review's duty to come back to us one more time and say, "Is this what you want?" but not just place it in the hands of people that have a different mind then we have about our problems. That no recommendation be enacted or any laws enacted without first coming back to the tribes one more time and see what is our attitude. Where do we fit in? Is this going to help us?

With one body serving at the Cabinet level: What is to stop Congress from saying this is what we wanted? We wanted them in one place so we could put the squeeze on, and there goes your treaties.

It could very well do this to us. This is the threat it poses to me in my mind, and this is why I am frightened of it, regardless of all of your good work. It won't be in your hands forever, but we as Indian people have a part in the final decision of what becomes of this.

Commissioner Bruce. Have there been any hearings up in your area that you, or members of your tribe, have been able to go to?

Ms. White. No; I am sorry to say that our tribal council has been very lax in this matter. It was only by my going to Washington, D.C., on the TGTP contract moneys trying to involve and educate the tribal members to what is happening that I visited the offices back there. I was just amazed at what you were doing. Our tribal leaders had not told us—had not given us any literature. It was through my efforts and speaking, that I was able to attend here today to give a small amount of testimony. But this is not the end; we have a lot of work to do to cover all the 10 that we would eventually be involved in.

We have many problems. We are a small reservation. We have a lot of problems.

Commissioner Whitecrow. Ms. White, I would like to ask you just a couple of questions, then I would like to make a statement regarding some of your comments.

1. You mentioned you were using fixed price contracts. Are you working on a cost-reimbursement type?

Ms. White. Yes; that is under the *Boldt* decision. It has created a burden for us.

Mr. Whitecrow. Are you receiving any advance payments on your contracts through the Bureau?

Ms. White. Only on our TGTP contract, on the source documents. It is about, a quarterly thing, and then we can get some moneys back.

Commissioner Whitecrow. Have you made any attempt to get advance payments on any of your other Bureau or IHS contracts?

Ms. White. I am not acquainted with all of them, so I couldn't truthfully answer your question on that.

Commissioner Whitecrow. I might say you do have an opportunity of getting advance payments on your contracts which will alleviate you from paying interest on any of the moneys that you have that you need to borrow to go ahead and make your payrolls. I would encourage you to check into the advance payment procedures. They do have advance payment procedures established.

Ms. White. They haven't told us about it.

Commissioner WHITECROW. Well, they do have. We would appreciate if you check into it. In the event you do not receive any sound response, please contact us for as long as we are in business, we will be here.

Ms. WHITE. You call that the advance payment?

Commissioner WHITECROW. Advance payment.

Ms. WHITE. Would that be also a contract or just advance payment?

Commissioner WHITECROW. No, this is an advance payment procedure that is written into a contract.

Also, from the standpoint of the Commission, I feel confident I can speak for the rest of the Commissioners who are present here, we certainly want to let you know that we are just as sincere and concerned about the future of the trust relationships that the Federal Government has with the American Indians. Very definitely, nothing will come out of this Commission, insofar as the Indians are concerned participating on this Commission, that will be a detriment to American Indians.

We also would like you to go back to your tribal council and tell them that this is not the end when we complete our work because these are just recommendations. It will only be the beginning. Legislative action will only come about as a result of the efforts put forth by the people, and if the people do not concur in the recommendations that this Commission brings about, then, of course, no legislative action will come about either.

So we would like you to tell your tribal council this: They must work, and their period of work is just beginning. This is just the beginning of a new era. Hopefully it will be a new era. But it is not one in which we can say, "This is done and the Policy Review Commission did it to us." If anything is done to the Indian people as a result of not participating in the Commission work, then, of course, we certainly hope nothing will be done that will be a great detriment to them. The only thing we can do is, if something should come about, I think every one of us on the Commission are active enough in all areas that we know how to bring about change and that if we need it, we can certainly bind together to accomplish this change, if there is anything that is detrimental to any particular tribe.

So it would be most appreciated if you would get your tribal council involved with the work of this Commission because it is vital to them. It is vital to your whole tribal membership.

Ms. WHITE. I realize this.

Commissioner DIAL. Ms. White, did you pick up one of these pamphlets in the hall?

Ms. WHITE. Yes. I would like to take at least nine back with me.

Commissioner DIAL. But did you get one?

Ms. WHITE. I only have one that I picked up.

Commissioner DIAL. Are there any left out there?

Ms. WHITE. There were several.

Commissioner BRUCE. Also, there is a film. I don't know how much in demand it is and where it is, but you might check before you go.

Ms. WHITE. They checked for me, but they couldn't locate it. I think they remarked that it wasn't all complete yet.

Commissioner BRUCE. It is complete.

Mr. GOETTING. I think they are talking about issuing some more copies of it. They are after more so it can be distributed further. So make your request to the office address on that little pamphlet that you have there and ask for the film.

Commissioner BRUCE. Right away. As a matter of fact, you can give your request to us before we leave here.

Ms. WHITE. I would request it because the local agency has no idea where it is at.

Commissioner BRUCE. Give your request immediately and we will take it back. We only have 12 films and I guess there are probably 100 requests for those 12. But we are trying to get more films.

Ms. WHITE. Do you want a written request, or just give it to you?

Commissioner BRUCE. I will take it verbally.

Ms. WHITE. Thank you.

Commissioner BRUCE. We appreciate your testimony. Is that building finished that I saw being built when I went there to visit?

Ms. WHITE. Do you mean our community center?

Commissioner BRUCE. Yes.

Ms. WHITE. Yes; they are having a big time there right now. This is the first annual. We hope to go on from year to year.

Commissioner BRUCE. A lot of hand work went into that building.

Ms. WHITE. Oh, yes.

Commissioner BRUCE. Thank you for your testimony. I think Commissioner Whitecrow expressed our feeling. I don't think we would be serving as Indian people, or as task force people, if we didn't feel this was an opportunity to accomplish and make some changes. But he also pointed out another thing: That unless your tribal council and your people get behind this thing, we aren't going to be able to accomplish much.

Ms. WHITE. My concern was in years to come. Here you have compiled all this information and it seems to me it could be a threat with it—the Government to rid the treaties, even with Judge Boldt, they are going to hang him in effigy, they are going to get rid of him. Any time the Indian can step out and do something worthwhile for himself, other people will still put you down. Of course, we have to live with that. That is the way it is. The many promises that we have been told I heard from my grandfather and other people, old-timers have never really come about. In fact, this is a promise, but where is it going to go? It won't always be in your hands, is what I am trying to say. And who is to say, with the changing of Government, who is going to pick it up and use it as a tool against us?

I want it so that the Indians themselves can have control of this information that goes into the record. That we always have first control of it rather than the U.S. Government. We would have control. It belongs to us, anyway. You are here to help the situation, not to take away. I would ask that this remain with the Indian people, the tribes, or anyone that gave testimony, that it remain ours forever. We would have the say-so and the final decisions of this property.

Commissioner WHITECROW. Ms. White, then would you recommend that a special commission of Indian people elected by Indian people be funded by the Congress of the United States to function as an advocate for Indian people, to hear their problems and to speak for them, in their behalf?

Ms. WHITE. Yes; very much so. Top attorneys to represent us in every matter be right there in Washington, D.C., at all times. There are many, many fundings that go out and yet we have to get out there and it is almost suicide just to get part of it. You have to prove yourself in so many ways. They will say, "Well, the funding is there, it is up to you to get it." But to understand the legal terms and the guidelines and the rules and the regulations, you have to be an attorney. We don't have that type of education. It is all new to us.

Commissioner BRUCE. But you would recommend that?

Ms. WHITE. Yes, that we always have some type of control over this. That it couldn't just be taken into Congress and wipe out our treaty entirely. You look at our coal, you look at our fishing that we have on the coast, uranium, you know, if they could do away with the treaties, if we become richer but we are still not equipped to face the world with our kind of education. A lot of us wouldn't survive, we just wouldn't. After they realize our value, then they want it and they get around you. I would like the Indian protected until we are ready to accept everything in our own way, that we understand what is happening around us.

Commissioner BRUCE. Thank you very much.

We have two more, I guess, do we?

John, are you here? Is John Holder here?

Leonard Tomaskin, will you come forward?

State your name.

STATEMENT OF LEONARD TOMASKIN, CHAIRMAN, YAKIMA INDIAN NATION GENERAL COUNCIL

Mr. TOMASKIN. Good afternoon to the Commission. Your Honor, the acting chairman this afternoon. My name is Leonard Tomaskin, chairman of the Yakima Indian Nation General Council. My capacity is in different fields—especially Indian education. I am a member and vice chairman and a past chairman of the Chemawa Indian School Board, which was formed, I think, in 1969 or 1970; a member of the Advocates for Indian Education, as its vice chairman for Northwest Tribes; a member of the Intertribal School Board, and a member of the Haskell Board of Regents.

All during the time that I have been here, with the Commission, I haven't heard any statement made about what I am here for this afternoon. I requested that I would like to be included on this unscheduled testimony. When I arrived here I find the people that I represent were not here to make statements. For the Haskell Board of Regents, our president is Phillip Martin. I see that he isn't here. I am glad to see my good friend John Ranier, who is the president of the Santa Fe Art Institute. The three postsecondary schools were formed into a consortium. Our main concern today, I believe, in the field of Indian education and as far as off-reservation boarding schools are concerned, which has been my concern, like I say, since around 1969. At Chemawa we have problems, I believe you have heard of it, that is located at Salem, Oreg., which is a school for the Northwest Tribes. We are having problems in funding, which I believe was the fault of the Bureau of Indian Affairs by not recognizing our statements and our concerns regarding that school.

At Intermountain School presently we have two school boards concerned with that school, which is creating a conflict. As I stated, I am a member of the Intertribal School Board and since the investigation that was held, which one of your Commission members was a member of for the investigating committee for Intermountain School, Hon. Ray Goetting, I believe he was quite instrumental by making his statements and presenting his findings of that school, that we were fortunate to have that school remain open for a national school. We have students from all over the United States, from various recognized tribes, who attend that school. And, as I say, presently we are having problems, and which I believe is the advocacy from the Bureau of Indian Affairs, by utilizing two school boards for that one school, and which is creating conflicts as far as hiring and firing people for that school. So we would like to see a change.

I am going to address myself mostly to the schools such as Intermountain, Haskell Indian Junior College, Santa Fe Art Institute, and SIPI. These are schools that take in students from all over the United States from the different tribes, as long as you are a quarter Indian federally recognized. Our main issue with the Bureau of Indian Affairs is the funding to run our programs, especially when the schools are put under a local area agency. As you all know the area director has his constituency within a specific area.

At Haskell Indian Junior College, as I stated, we have students from all over the United States, federally recognized tribes. We are having problems with the area that it is under, the Anadarko area. Since this band analysis system came out we are having problems in getting funding. We have an area level representation. On Haskell Indian Junior College I represent the Portland area. I believe we have 12 members that are 12 areas, including Alaska. And the problem we are having is the conflict between the different areas, and trying to work our problems out with the Anadarko area. As I say, the Anadarko is primarily concerned with their own constituency which is under the Anadarko area. So when we go into a budget, band analysis, we have to work with that area. We have come up with many problems.

One of the problems that the three boards that are formed in the consortium, the postsecondary schools, we have hired a young man who is a past commissioner, hired him as our legal adviser, but we have run into conflict with the local areas, which is the area directors. They have fired our legal adviser, and there is no way that we can get him back. We have gone to Washington, we have talked to the area directors, but they will not reconsider.

So what I am trying to say, if there is any possible way that we could change the system to where all these schools that take in students from all over the United States could be in a centralized location, as far as different programs that can be implemented into the different schools, as far as off-reservation boarding schools are concerned. We would like to get out from under the local area system. We have requested moving the area and our band analysis to the central office, with the three postsecondary schools that have formed into a consortium. I believe if we developed a system like that, we would have a better opportunity as representatives of our local areas; as I represent the local Portland area, I think I would have better representation if I went to some central place where I could recommend a certain amount of funding for programs to be handled in the schools. I believe Mr. Ranier has the same thing to present.

I am sorry that I didn't have a written statement. I promise to have one within the 30-day limit. I did not think that I was going to be on this, but as I said, I didn't see anybody here that would represent our problem that we have with the Bureau of Indian Affairs. So this I want to leave with John for him to conclude, with maybe some of the problems that I did not cover. John, do you want to carry from here?

Mr. RANIER. Thank you. The fact that the Intermountain School, Haskell, SIPI, and the Institute of American Indians are national in scope, when the decentralization took place and the authority was placed in the local area offices with the introduction of the band analysis program, it is very true that the area directors, being politically minded, pay more attention to their local constituents. When the local tribal groups come through with their band analysis program, their requests are recognized at the expense of the Institute or Haskell or the SIPI. In recognition of these problems the consortium made very strong recommendations to the Director of Education in Washington to set up a separate office for the three and four national schools with a director and a budget and personnel. We believe that the best way to handle education for these national schools would be in this fashion. But we have had a whole series of meetings with the Commissioner's representatives and the Commissioner himself, and we are not getting anywhere. So we want to bring this to the attention of the Commission.

Commissioner BRUCE. What is the reason why they won't consider this? Is it because of the lack of budget funds, or whatever, in the central office?

Mr. RANIER. They seem to make an issue out of it. That since it is not their baby, to begin with, they didn't think of the idea, and it is coming from the Indians, they are not willing to accept a recommendation that seems to be very practical. We can't understand it ourselves, why they refuse to proceed with the planning and set up an office that would meet the needs of these students.

What we really want is a director and a person who would be an advocate for all these schools. So they can make up the budgets and be responsible for the administration of these schools.

Mr. GOETTING. John, let me ask you a question here to clarify. What you are saying is they have a one-line budget for education. Therefore it lets them use their funds and allocate it to area offices wherever the area offices want it?

Mr. RANIER. Right.

Mr. GOETTING. That there is a big difference in the amount of money it takes for nationwide schools to operate as separate from elementary schools or local high schools. Therefore a division in that would limit their flexibility to use it wherever they want to, but there is a difference in the financing, there is a difference in the staffing, there is a difference in the planning, and there is a difference in the kind of people that run schools of that caliber?

Mr. RANIER. Sure.

Mr. GOETTING. So what you are asking for is recognition of those differences and be budgeted accordingly. Is that what you are saying?

Mr. RANIER. Yes.

Mr. GOETTING. Organize according to that?

Mr. TOMASKIN. Yes, this is what we are asking. I know from the area office in Portland, each area is supposed to submit a certain budget request to these schools, I don't know whether they do or not, to the Anadarko area, like Haskell Indian Junior College. But I don't know whehter they submit, let's say, for a certain amount of students. They should send in a request, this is how many students that are going to enroll at Haskell Indian Junior College for the coming year. We don't know whether this happens or not. It always ends up that Anadarko area has the complete say-so, due to the band analysis, to put in a budget request to operate that school.

Mr. GOETTING. Let me ask this question, then; in terms of our concerns about the structure of BIA, if we, as has been recommended here before, to reduce the area offices to technical offices and delegate the power to agencies and these schools become agencies of their own, superintendents operating as a superintendent of an agency directly under the central office: Would this be a plan that would satisfy a part of the objections you have?

Mr. RANIER. Not necessarily. As we said before, the makeup of the student body is national, intertribal, a few coming from Anadarko, a few coming from Portland, Milwaukee, so forth. We believe by the Bureau setting up a separate office, with a director and a staff and a budget would take care of these schools.

Mr. TOMASKIN. We mean this director or this central office that will be located wherever would take the responsibility of submitting a budget for each area, and put it under one school board or whatever. The other thing is, we would like to have our school boards a little more policymaking body within the schools concerned. As I stated about Intermountain, we have two different school boards representing Intermountain, and we have developed a conflict, as far as hiring and firing people to work at Intermountain. So I think if we can get out of this kind of a system, and go into an intertribal school board, such as the postsecondary schools have, as board of regents, we are the ones who should decide on the budgeting system for the local schools, and then turn it into wherever the centralized director will be.

Mr. RANIER. I think we have two problems. One, all the members of the board of regents of the three schools are mature, civic-minded, interested men and women, and like anybody else, in all our works, we would like to be protected by legal interpretation of what we take up. Mr. Bennett was very active and useful to us, and before we knew it they cut him off and terminated his relationship with us.

Mr. DELORIA. Who made that decision?

Mr. RANIER. The Anadarko area office, I believe.

Mr. DELORIA. Did they give you a reason why that was done?

Mr. RANIER. They said something about the restriction of the funds.

Mr. DELORIA. They said they ran out of money?

Mr. RANIER. What was it?

Commissioner WHITECROW. Ray, what did you think about that Anadarko meeting?

Mr. GOETTING. We will find out.

Commissioner WHITECROW. It seems as though each time we have heard testimony today, Anadarko keeps running out of money and they have to cut back positions or have to cut back services.

Mr. GOETTING. You don't get enough money when you cut out the little fellow. You have to cut out the top guy to get enough money back.

Mr. DELORIA. Maybe you have already answered this when I was signing those travel forms a few minutes ago. Could you explain, if you haven't already, how it came about that these national schools were placed under area office jurisdiction?

Mr. RANIER. By the very nature of the decentralization program of placing authority at the area level made it possible for the head of the area office of education to have authority over, like SIPI, for example, and the Institute of American Indian Arts, and Haskell happens to be in the Anadarko area office, so it is under the Anadarko area office. The Intermountain School happens to be under the Phoenix area office way down there, and so the board of regents from down there are competing with the nationally picked board of regents from the Intermountain School. So we have a real good conflict there.

Mr. DELORIA. Could you explain again how Intermountain came about with two school boards? I still don't understand.

Mr. TOMASKIN. When we first came, you know, like I explained through the works of Ray Goetting and the committee that was formed to investigate, and asked for keeping the school open, and the complaint was Intermountain was under the Albuquerque area.

Mr. GOETTING. Navajo.

Mr. TOMASKIN. And it was under the Navajo School Board. So realizing that Intermountain takes in students from all over the United States, federally recognized tribes, realizing that, I think it was stated here for the past 2 days, each tribe has their own significant way geographically, our treaties are different, even though they mean the same thing, but yet we do have differences in treaties for different tribes. So realizing this, this is why we recommended an intertribal school board for Intermountain, and we found out that we won by retaining Intermountain School, I think, for another 5 years. But it went under the Phoenix area and the Phoenix area has a Navajo which I think they call the Phoenix Area School Board, which is comprised of all Navajo. So then that kind of put the intertribal school board, which was elected by the local tribes, it kind of put them way out there on a limb again. So we are still in the same kind of a situation that we were in before the investigations.

So we are dealing with a lot of problems in Intermountain. I think we have the high school. We have a certain amount of postsecondary training, and we have a vocational, and then we have the NITC, which is under the school board. We developed this intertribal school board to work with the different areas, and we set them up into committees from the school board to take care of certain areas at Intermountain, those different categories that I have named. Each member of the school board is on one of the committees.

Now, that is gone out the door because of the situation, it going under the Phoenix area and then it is given to the Phoenix Area School Board, which is all Navajo. That put us out on a limb, as I said already. So this is what we are dealing with now. This is one of the reasons I think I would like to recommend what was already said, that we be put under some centrally located for national Indian schools, off-reservation boarding schools.

And the other thing that I understand is, eventually all these off-reservation boarding schools will be closed. That is in the future, what I hear. This is all hearsay. I have approached the Commissioner about it, and he flat denied, it was not his idea. But other people have told me that he has made statements as such. So they advocate not sending children away from homes. They are trying to retain the children right at their own local schools, which is the public schools. I believe I have shown in many of my statements the problems that we Indians have. I think you heard it here for the past 2 days, as far as talking about the local public schools. The problems that we face with the non-Indians, whether they be white, colored or otherwise, we have problems. This is why I think we are in dire need of the off-reservation boarding schools. That is our last resort for the education of our young people. If they can't get it at home, we would like to have these schools to where they can get it.

The statement was made here about the differences between a contracting teacher or retaining them in civil service. I really can't see letting go of civil service entirely because of the relationship of Indian tribes with the Department of the Interior and the Civil Service Commission. Our local agencies, our superintendent or whoever we hire in the agency, they come through civil service, and I believe this is what makes our treaties so unique. Especially those of us that have treaties that are worded in there about education. It is an entitlement, it is not a privilege.

I can't go along with completely eliminating civil service but I would like to recommend—at one time during the *McKay* case, I came up with a recommendation of saying maybe the Bureau of Indian Affairs should make itself significant to serve Indian people and to start looking for people to serve Indian people, to go such as these—well, where they send all these young kids that come from poor homes, especially the colored kids, the deprived children, and then they have a significant organization who serves in the different—let's say, those people that go overseas, they draw $21 a month or something like that.

Mr. DELORIA. Peace Corps.

Mr. TOMASKIN. Peace Corps, VISTA. They are significant people. They got stringent requirements for those people to go to work under these programs. I think this is what we need for the Indian people, as far as our schools are concerned. We need people who know our backgrounds, who know our values, who know our cultures, and who would be sensitive to our ways. These are the kind of people we need to hire. I wouldn't recommend just entirely eliminating civil service. I think we should utilize civil service but utilize them like Peace Corps, like VISTA and all these others—Job Corps. You have to have a certain qualification in order to go to work in these programs. I think this is what we need in the Indian field.

Commissioner DEER. Mr. Tomaskin, do you have any figures to which you can refer as to the harm that comes from the band analysis method?

Mr. RANIER. We don't have the hard figures as to the effect the band analysis programs have on these boarding schools except the fact that first consideration is given to the band analysis program as adopted by the local tribes. therefore, cutting off the supply of money that would otherwise have been available to the boarding schools.

No, believing that the board of regents at Haskell, at SIPI, and at the Institute would be better able to administer the schools, efforts have been made to contract with the Bureau. But we are told, Haskell, at least, was informed that they do not qualify under the Self-determination Act, or something, to contract for services, administration of the schools.

Mr. GOETTING. I might say. though, Ada, there was a meeting in the Congress, the Senate Appropriations Subcommittee, I believe, has asked for the set of figures you are talking about and there was a meeting and the Bureau is gathering that data. I attended the meeting at Haskell 1 week ago Friday, I believe it was—1 week ago Monday—and we will have an opportunity to see those and get those figures. We were a party to some of the questions that were raised for that material. We will have the budgetary requirements, individually identified by all the off-reservation boarding schools. I think there are 18 of them, all the way from elementary, high school, so on. So we will have that data in our file.

Mr. DELORIA. Are these schools filled?

Mr. TOMASKIN. Intermountain, I believe, I think it is what, 1,800 capacity.

Mr. GOETTING. No; it has been revised to something like 1,200. They have converted other buildings to educational facilities and NITC facilities.

Mr. TOMASKIN. NITC doesn't have too many people going to NITC, but presently I believe there are about 600, more or less, students at Intermountain. Haskell Indian Junior College I believe is under capacity. I really couldn't give you offhand just what the capacity is, as far as student body is concerned, but I think this is the problem.

Ada, in response to your question on band analysis, as you well know, band analysis was devised for the local area level. As far as these off-reservation boarding schools are concerned, and under these areas, especially the ones that take in Indians nationally, they are dropped out of that. They are not really considered as a part of the area.

Commissioner BRUCE. Any more questions?

Commissioner DIAL. At Intermountain do you have high school, or do you have intermediate grades, where does the training end at Intermountain?

Mr. TOMASKIN. It is high school.

Commissioner DIAL. Just high school?

Mr. TOMASKIN. Yes. Freshman on up. Then there is some postsecondary training, which is college prep.

Commissioner DIAL. Since I didn't attend one of your schools spell your last name for me, please, sir.

Mr. TOMASKIN. T-o-m-a-s-k-i-n.

Commissioner DIAL. Thank you.

Commissioner BRUCE. What is the timetable, yesterday, for all of this change?

Mr. TOMASKIN. A year ago.

Mr. RANIER. Last July was our target date. Nothing came about.

Mr. TOMASKIN. One of the main things that we are always up against is the old outdated CFR's and these schools are not, you know, considered in the CFR's.

Commissioner BRUCE. Have you talked to any congressional people?

Mr. TOMASKIN. Yes, we have. John here has talked to, I believe, Congressman Yates. I know Philip Martin has been on the Hill many times. He has even testified for the next fiscal budget for Haskell Indian Junior College.

Commissioner BRUCE. Have you talked to any of the Educational Task Force people?

Mr. RANIER. No; we haven't.

Mr. TOMASKIN. That is one of the things I failed to mention. I was going to mention that. I have been quite concerned about that task force. They haven't been too active. Dealing with Indian education for all these years, one of the members that is on there now is a member of my Committee for Northwest Tribes. She is the acting director for the Advocates for Indian Education—who is Lorraine Misiaszek—and I discussed this matter with her about the task force holding hearings. The time they held a hearing out at Spokane I had to be in Washington at that time so I could make that hearing, but I am concerned. I did want to go to one of their hearings. So I think this is why I find quite fortunate I was authorized to come to the Commission hearing so that I could present my views as far as Indian education is concerned and our off-reservation boarding schools. Especially the ones that take students nationally.

Mr. RANIER. My Chairman, out of my own personal concern about the Educational Task Force, I have taken it upon myself to call the National Indian Education groups: like the chairman of the Education Committee of the National Congress of American Indians; Mr. Lawrence Snake from the National Tribal Chairman's Association; the National Indian Education Association; the National Advisory Council on Indian Education; the Coalition of Controlled School Boards; the Consortium on Higher Education; the National Health Board people; and the American Indian Physicians' Association. They are interested in the preparation of the younger people in math and science courses. We are meeting tomorrow, hopefully, to determine whether we should come out with a position paper to present to you for your recommendation to Congress. I hope it works out but I am not sure. They all agreed to come. We invited Alaska also. We will see what happens.

Commissioner BRUCE. I am sure the task force will come up with a recommendation, too, and ought to be included in it. But we would like to be a part of that, too—all of us as Commissioners—see what we can do.

I only mentioned Sid Yates because he gave some unsolicited money, the Commissioners told me this, $76 million unsolicited money.

Mr. DELORIA. For what?

Commissioner BRUCE. I don't know. I asked Commissioner Thompson what it was for. He didn't know and I haven't been able to get back to Sid Yates to find out why he did it. That is true. This came in last Thursday morning.

Mr. Ranier. They had a quarrel between the Appropriations Subcommittee and the Senate over the 200 fellowships and this could be. I hope so.

Mr. Tomaskin. I believe, Mr. Chairman, you asked the question on whether we contacted Sid Yates. We have many a time. He was very instrumental in helping us retain Intermountain for 5 years, continuing opening for the education of our young students. I have directed the president of Haskell Indian Junior College to go to see Congressman Yates and I believe he has, as far as Haskell Indian Junior College is concerned.

Commissioner Bruce. What about Congressman Bob Duncan, have you ever gone to see him?

Mr. Tomaskin. We contacted him. We have contacted Hatfield, we have gone to Jackson, and gone to Meeds.

Commissioner Bruce. They know all about it?

Mr. Tomaskin. Yes. I would like to say as my closing remarks, the young lady, I don't think I could put it as eloquently as she did, but that has been my prime concern is what she mentioned here, in her closing statement. From, let's say the grapevine or hearsay or whatever, we don't know what is going to happen to these hearings and reports you will all comprise as a Commission. Whether it is going to be a closed book. we don't even know. We are wondering. But from what I hear it will be a closed book and it will be congressional property. It is one of the things that I am fearful of.

Commissioner Dial. It is to be history, isn't it, Louis, the report?

Mr. Goetting. The final report of all the task forces will be published and will be available to the public.

Commissioner Bruce. To the public.

Mr. Goetting. Prior to the publishing of those I understand there will be an opportunity to circulate the results of the task forces, so that the tribes will have a second opportunity to accomplish this very thing the lady said. This is in the plan as it stands now.

Commissioner Dial. That is not what I was speaking of. The final report will rest somewhere. and I say it will go to archives.

Mr. Goetting. The final report is to be submitted to the Speaker of the House and the President of the Senate who will refer it to committees for action but it becomes a public document. It will be a public document. I am sure the material that is gathered, as Commissioner Dial has said. will rest in the archives or available to the public as any other documentary evidence is concerned.

Commissioner Dial. Available to the public.

Mr. Tomaskin. This is one of my concerns. The other concern I had—I spoke with the Senator before he left, there was a news interview that Abourezk held about 1 month or 1½ months ago which I just explained to him prior to his leaving—I believe most of the tribes are in fear of 638, of some of the wording. A lot of the old tribal leaders still believe that HER–108 is in existence. So the reason they are fearful of 638 is because of some of the wording such as self-determination, and self-sufficiency. That is what HER–108 said: When a tribe becomes self-sufficient it is qualified to be terminated because it can take care of its own business. This is what I believe the people are really afraid of in 638. They hate to implement it.

So this is what I asked the Senator about. In the news media he mentioned the reason he voted for 638. He was quite disappointed with the way it is being handled as far as coming up with regulations to implement 638 from the Bureau of Indian Affairs and HEW.

But he said, "The reason I voted was for the eventual severing of strings between tribes and the Bureau of Indian Affairs." When he answered my question, he said he did not say that. So then I told him, "Well, evidently you must have been misquoted in the news, but that is the way it said it in the news, those very words, the eventual severing of strings between tribes and the Bureau of Indian Affairs," that is his meaning of 638.

So this is what I believe I am really quite concerned about, what this lady mentioned, this last witness, I think we are all fearful of what are we going to step into pretty soon. We don't know in the years to come.

Commissioner BRUCE. You are going to have a lot to do with what the recommendations are going to be.

Commissioner DIAL. The way I view it, some good can possibly come out of the study. I believe there will be some good from this study, and I don't see where it can harm. I am truthful about this. I don't see where it can harm anyone. I can't see any damage that the study and the hearings can do to anyone. This is the first time in history we have had such hearings throughout the country. It is the first time in the history of the country that Indian people with Congressmen, you know, similar to this. You are saying the Meriam report, but it was not like this. It would seem to me that after January 1977, during the 2 years when the Congress—the period they have to act on this—that this will be the period that the Indian people will be speaking, "We want this, we want this," and so forth.

As you know, the hearings will soon be over and the report will be turned into the Commission by August. Then it goes to the Congress in January. Then the Congress, in 2 years they have to recommend it to the various committees for action: the appropriation committees, education, and so on. I don't see where it can hurt anything.

As far as the treaties that the lady spoke about, it couldn't possibly undo one word of a treaty—the entire study.

Could it, Sam?

Mr. DELORIA. I don't think so.

Commissioner DIAL. I am talking to the Yale law graduate.

Mr. TOMASKIN. Mr. Chairman, the statement I made there regarding 93–638, I think a lot of the tribes really don't understand. I have gone to some of the workshops that were held. The legal interpretation, how to implement the contracting system, I have asked some very important questions which concern my people. As I stated, our treaty is very unique. We are not executive, we are not IRA, we are still a sovereign nation which was negotiated by my ancestors. They gave up so much property in order to have what we have left. This is why we are fearful of some of the bills that are coming out and have asked some very important questions at these seminars, such as the time we had it at Oakland. The legal interpretation of 93–638, how to implement the contract, what we can contract for, and all this. I have asked some very important questions on that and I am waiting for a response from one of the attorneys who held the seminar, representing 93–638 and the Secretary of the Interior. I would like to say that after I receive it, maybe I could include it to this Commission, in hopes that the people might have a better understanding of 93–638.

My people have never had an opportunity to vote on it one way or the other, as we did when IRA came out. My people voted unanimously against IRA. Any other bills that came out, such as the 280 and all these, and then that HER–108, they voted against it, but we have never had the opportunity to vote on 93–638 as a tribe.

I think this is what we need to know definitely, where we stand with that bill and how we stand. One of the questions that I have asked was the relationship in interpreting the word "self-determination," the relationship between HER–108, and IRA. There are some changes that will come out within our treaty when we implement 93–638 for our tribe. This is what I finally squeezed out of the attorneys and I am waiting for the complete response to my questions.

So with this I think I will conclude my statement and hope for the best.

Mr. Ranier. I want to congratulate the members of the Policy Review Commission for having found Shangri-La; it is really hard to find.

Commissioner Bruce. Thank you for your statements.

Mr. Tomaskin. Thank you.

Commissioner Dial. That is one of the best statements I have ever heard, with no formal report. That is excellent.

Commissioner Bruce. But you are going to submit some more things?

Mr. Tomaskin. Yes, as far as the Haskell Indian Junior College is concerned. I will contact Philip Martin. He has more pertinent information on it, and with what statement I presented here. I was going to ask, since you have a recorder and I didn't come with any papers to present to you, I wonder if I could get a report just on our statement, so that I could give a report to my council.

Mr. Goetting. You probably could get a copy of this after it is produced, all right, for that section you have participated in.

Mr. Tomaskin. I would like to present it to my council so they know that I said something anyway.

Commissioner Bruce. We are putting that right on the record.

Mr. Tomaskin. Thank you.

Commissioner Bruce. Don, how much time do you want?

Mr. Hickman. Five minutes.

Commissioner Bruce. All right.

STATEMENT OF DONALD HICKMAN, EAGLE LODGE, DENVER, COLO.

Mr. Hickman. I am Donald Hickman, representing Eagle Lodge here in Denver, Colo.

The things I am mostly concerned, about the Bureau of Indian Affairs, I feel that whether this Commission sees fit, our Congress sees fit that formal assistance be abolished, or whatever, I think there is still going to have to be some need met with the urban Indians in Denver. Even though there still exists, like Denver, Los Angeles, Dallas, and these kind, they need another office to be able to help the urban Indians that are here. So many times I think they get confused or they get upset because one of the requirements in the policy is that they have to return back to the reservation and apply to go through training in Denver. Someone might arrive in Denver for just about 1 week and knowing maybe they were a burden to their grandmother who was taking care of them, and they would know they had to be a burden to them 1 more year.

I can't understand, this is 1976, and our Indian leaders in Washington still haven't found the answer how to financially help the Indians in urban areas—in Dallas, Tex. I think there are changes that need to be made, definite changes.

Commissioner Bruce. What are they?

Mr. Hickman. There would have to be another separate office, even if the Bureau still remains in Denver maybe they can coordinate together or something, that is one handling the reservation Indians who are coming off the reservation, one handling the urban, because there will always be money, and there will always be a system. People want to change the system, but the system will always exist. I feel something could be changed, the policy could be changed.

I see a lot of programs in HUD and HEW here in Denver and they will say, "We are geared to help the reservation Indians." That is good. I am all for that. But what about the people that are existing in the city?

Mr. Deloria. Would the CEDA program help?

Mr. Hickman. I think the CEDA program is coordinating with the Indians here in Denver and they say the same thing, "We have a lot of Indian people coming into Denver and we have a large backlog." That is happening, too. Other people are still put on waiting lists and they are getting discouraged.

Mr. Deloria. But formal assistance can't help people who just walk in the office here unless they were brought to town, unemployment assistance, is that the problem?

Mr. Hickman. That is what it amounts to.

Mr. Deloria. Has that always been the rule?

Mr. Hickman. I believe so, isn't it, Mr. Bruce?

Commissioner Bruce. Right.

Mr. Deloria. It is just a regulation. They could change it.

Commissioner Bruce. Sure. Technical assistance we talked about before.

Mr. Hickman. Yes.

Commissioner Bruce. That is another problem here, too, to Indian businesses.

Mr. Hickman. Right.

Commissioner Bruce. That is another recommendation.

Mr. Hickman. There are a lot of problems. Somehow there has got to be more money allocated to the Indian people. I think everybody is getting mad at the Bureau of Indian Affairs, but, like a lot of things, if they don't have the money it is hard to do. Then again there are a lot of administration costs to run the Bureau of Indian Affairs. Everybody says if we reduce the personnel, then we will have more money. That could be true, too.

I remember, I called Muskogee and asked their education office, since I am a Choctaw Indian from Ardmore, Okla., and requested for schooling. He said, "We can't help you, Mr. Hickman."

I said, "Why not?"

He said, "Because we have only the in-State, you are out-of-State." So I didn't follow the guidelines any more.

So that needs to be changed. People who are in the Anadarko office, and probably the Muskogee office, should be able to service the in-State and out-of-State Five Civilized Tribes.

Commissioner WHITECROW. What you are saying, Don, you don't feel just because you leave home you lost your entitlement as a tribal member?

Mr. HICKMAN. That is correct.

Commissioner WHITECROW. We are hearing the same comment all around the country. I am sure we will take some action upon this form of a recommendation.

Mr. HICKMAN. That is about all I have to say. Anybody want to ask me questions? If not, OK.

Commissioner BRUCE. Thanks, Don.

Mr. DELORIA. Before we close, I would like to thank the Commissioners for staying until the end and working as hard as they have. Our task force was, I don't feel, fully and adequately involved in preparation for the hearings. So we were as unprepared as you were, and I think that is unfortunate. But there is a great deal for the staff to do. I am not trying to cast blame on anyone. But I would like to thank the Commissioners for the long hours they put in, and also thank our recorder, who has been staying up with everybody for 2 very long days. I think we expect hard work out of the Indian members of the Commission, and we are getting it. We also could note and recognize that Commissioner Dial has been here the whole time and this is an area of the Commission's work that is not immediately beneficial to the people he represents. I think that is worthy of note, that he is not slacking on the things that don't have an immediate payoff.

Commissioner DIAL. Today is graduation at my university, too. That is an additional sacrifice.

Commissioner BRUCE. Today is Mother's Day.

Commissioner WHITECROW. I would like to also state a good word for our recorder. I participated with her another time or two. She is very diligent, competent, and outstanding, and if we could, I would vote her a raise.

Commissioner DIAL. I would like to say I feel we had a good hearing. I have attended several, and I tell you, it is an education within itself. I feel it is very helpful. I have learned a lot about the BIA the last 2 days, more than I would ever learn, I suppose. This was real good for me, Mr. Deloria. Since I was never under the BIA, I was very interested in what was being said. Probably—there is no "probably" to it, I am sure I learned more in this meeting than any other member, because you people were so familiar with the operation of the Bureau.

Commissioner BRUCE. I felt that a lot of the criticism by the people against the Bureau was justified. I felt I was a Commissioner trying to answer all of those questions and find the solution rather than getting the recommendations from them. But I thought it was a good hearing. I am sorry I missed the BIA "hate day," yesterday.

Thank you for your help.

The meeting is adjourned.

[At 5:35 p.m., Sunday, May 9, 1976, the hearings were adjourned.]

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